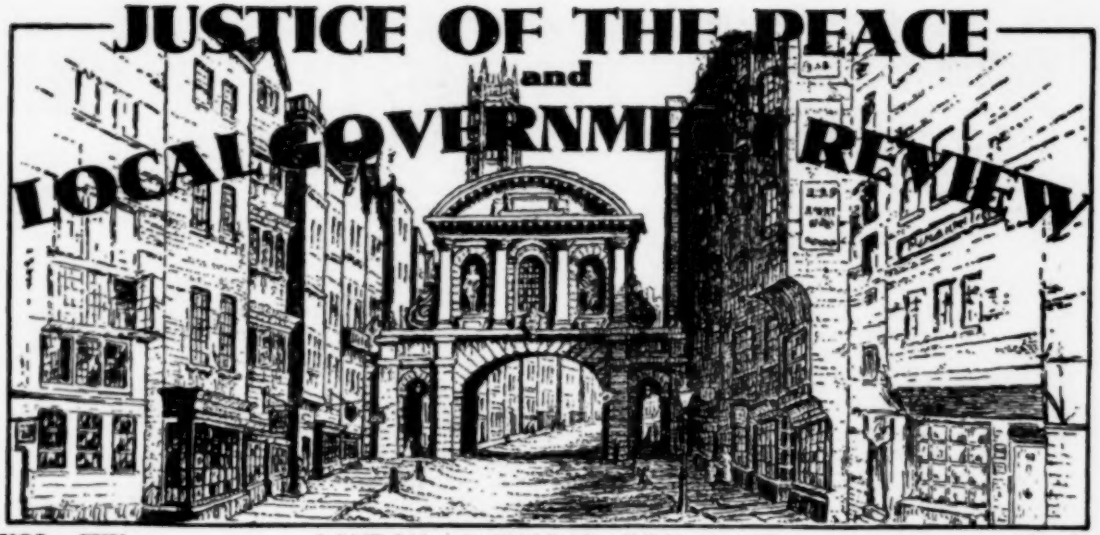

VOL. CXV. LONDON: SATURDAY, JULY 14, 1951. No. 28

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REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt* 10 *a.m. Thursday*

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Borough of Torquay

Appointment of Assistant Solicitor

APPLICATIONS are invited from Solicitors for the appointment of Assistant Solicitor. Salary A.P.T. V(a) (£600—£660) rising to A.P.T. VII (£685—£760) after two years' admission.

The appointment is subject to the Local Government Superannuation Act, 1937, and to medical examination and terminable by one month's notice.

Applications, stating age, experience, past and present appointments, together with the names of two referees, and endorsed "Assistant Solicitor," must reach me not later than July 18, 1951.

T. ELVED WILLIAMS,
Town Clerk.

Town Hall,
Torquay.

Staffordshire County Council

Law Clerk

APPLICATIONS are invited for the above post in my office at a salary within Grades IV—V of the National Scale of Salaries (*i.e.*, £530 × £15—£600 × £20—£620).

Applicants should have experience in conveyancing and general legal work. Local government experience is not necessary.

Details of the appointment and of the conditions of service should be obtained from the undersigned. The closing date for applications is August 8, 1951.

T. H. EVANS,
Clerk of the Peace and of the County Council.

County Borough of Walsall

Senior Conveyancing Assistant

APPLICATIONS are invited for the above appointment, Salary Grade V., A.P.T. Division of the National Charter (£570 × £15 (2) × £20—£620). Municipal experience is desirable but is not essential.

The post is superannuable, and the provisions of the Local Government Superannuation Act, 1937, will apply thereto. A medical examination will be required.

The appointment will be determinable by one month's notice on either side.

Applicants must be able to deal with conveyancing, agreement, and contract matters with a minimum of supervision.

Applications accompanied by not more than three recent testimonials must reach the undersigned not later than first post on Wednesday, July 18, 1951. No form of application is issued, but applicants should specify their qualifications and experience in the application submitted, and disclose any relationship to members of the council.

Canvassing in any form is prohibited and will disqualify.

W. STALEY BROOKES,
Town Clerk.

The Council House,
Walsall.
July 2, 1951.

County Borough of Wigan

Appointment of Assistant to Clerk to the Justices

APPLICATIONS are invited for the appointment of a whole-time male assistant to the Clerk to the Justices.

Applicants should have general magisterial experience, be capable of taking a court, issuing process and keeping the Justices' Clerk's accounts.

The salary, based on A.P.T. Grade III will commence at £500 per annum rising by annual increments, subject to satisfactory service, to £545. The appointment will be terminable by three months' notice on either side.

Applications, stating age, present position, qualifications and experience, together with copies of not more than three recent testimonials, should be sent to the Clerk to the Borough Justices, 69 King Street, Wigan, by Saturday, July 28, 1951. Envelopes should be marked "Assistant."

R. F. JONES,
Clerk to the Justices.

69 King Street,
Wigan,
Lancashire.
July 4, 1951.

Gloucestershire (Combined Areas) Probation Committee

Appointment of Whole-time Male Probation Officer

APPLICATIONS are invited for the above appointment. Applicants must be not less than 23 nor more than 40 years of age, except in the case of whole-time serving officers.

The appointment will be subject to the Probation Rules, 1949 and 1950, and the salary in accordance with the prescribed scale.

The successful applicant will be required to pass a medical examination.

Applications, stating date of birth, present position and salary, previous employment, qualifications and experience, together with copies of two recent testimonials, must reach me not later than July 21, 1951.

GUY H. DAVIS,
Clerk of the Committee.

Shire Hall,
Gloucester.

City of Plymouth

Junior Assistant Solicitor

APPLICATIONS are invited for the appointment of Junior Assistant Solicitor in my office within Grades Va—VII (£600–£760 per annum) of the A.P.T. Division of the National Scales. Commencing salary will be according to date of admission. Previous experience in a local government office is not required; good conveyancing experience is essential. The appointment is superannuable, and the successful applicant will be required to pass a medical examination.

Applications, which must be received by me not later than Tuesday, July 17, 1951, should give particulars of the applicant's age, education, articles, date of admission, present and previous appointments and legal experience, and should state the names and addresses of not more than two referees as to character and ability.

COLIN CAMPBELL,
Town Clerk.

Pounds House,
Peverell,
Plymouth.

Borough of Ashton-under-Lyne

Appointment of Deputy Town Clerk

APPLICATIONS are invited from solicitors for the appointment of Deputy Town Clerk of this borough (population 47,000). The salary will be in accordance with Grade IX of the Administrative, Professional and Technical Division of the National Scales of Salaries (£790—£910 per annum).

Applicants must have had considerable Local Government experience and be competent advocates.

Applications, giving particulars of age, education, qualifications, present and past appointments and experience, accompanied by the names of not more than two referees, should be sent to the undersigned, endorsed "Deputy Town Clerk" to arrive not later than July 18, 1951.

The council will be prepared, in a suitable case, to offer housing accommodation to the successful applicant.

G. A. MALONE,
Town Clerk.

Town Hall,
Ashton-under-Lyne.
July, 3 1951.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

The Licensing of Pet Shops

The Pet Animals Act, 1951, which was passed on June 22, 1951, and which comes into operation on April 1, 1952, adds yet one more burden to the many which the legislature continues to pile on the back of that willing pack-horse, the court of summary jurisdiction. Shall we ever see an " Act for the prevention of the cruel overworking of magistrates' courts "? The particular provision to which we are referring is contained in s. 1 (4). The earlier subsections of s. 1 provide that no one shall keep a pet shop except under the authority of a licence from the local authority. This is defined in s. 7 (3) as the council of any county borough or county district, the council of a metropolitan borough or the Common Council of the City of London. In Scotland, it means the council of any county or burgh.

The local authority is entitled to charge a fee not exceeding 10s. for a licence and they must have regard (without prejudice to their discretion to withhold a licence on other grounds), to certain matters specified in s. 1 (3). This means broadly that they must be satisfied that the animals will be kept in proper conditions and be properly looked after.

This brings us to s. 1 (4) which provides that any person aggrieved by the refusal of a local authority to grant a licence, or by any condition subject to which a licence is proposed to be granted, may appeal to a court of summary jurisdiction having jurisdiction in the place in which the premises are situated. On such an appeal the court may give such directions with respect to the issue of a licence, or, as the case may be, with respect to the conditions subject to which a licence may be granted as they think proper.

By virtue of r. 58 of the Summary Jurisdiction Rules, 1915, the procedure on such an appeal will be by way of complaint, by the person aggrieved, for an order, and the Summary Jurisdiction Acts will apply to the proceedings.

Section 2 of the Act prohibits the selling of animals as pets in any part of a street or public place, except at a stall or barrow in a market.

Section 3 prohibits the selling of any animal as a pet to anyone whom the vendor has reasonable cause to believe to be under the age of twelve years.

Section 4 allows the local authority as above defined to give written authority to any of its officers or to a veterinary surgeon or veterinary practitioner to inspect any licensed premises within their area. Section 4 (2) penalizes the wilful obstruction or delaying of a person duly authorized so to inspect, the maximum penalty being a fine not exceeding £25. For other offences against the Act the maximum punishment is a fine not exceeding £25 and/or imprisonment not exceeding three months. Moreover, on convicting a person of an offence against the Act or against the Protection of Animals Act, 1911 (or the corresponding Scottish Act for Scotland), a court may cancel any licence held by the offender under the 1951 Act and may disqualify him for keeping a pet shop for such period as the court thinks fit. Such an order of cancellation or disqualification may be suspended by the court pending an appeal against its decision. These various penal provisions are contained in s. 5.

By s. 6 a local authority, in England and Wales, may prosecute for any offence against the Act committed within its area.

Section 7 is the definition section. There is a proviso dealing with the position of persons who keep and sell pedigree animals bred by themselves. " Animal" is defined as including any description of vertebrate.

Common Informers Act, 1951

This is another new statute of which our readers will wish to take note. Section 1 (1) is as follows : " No proceedings for a penalty or forfeiture under any Act in the Schedule to this Act or under any local or private Act shall be instituted in Great Britain against any person after the commencement of this Act : provided that this subsection shall not prevent proceedings where no part of the penalty or forfeiture is payable to a common informer."

The schedule contains a long list of statutes beginning with 5 Edw. III, c. 5 (Sale of Wares after Close of Fair) and ending with 12, 13 and 14 Geo. VI, c. 68 (the Representation of the People Act, 1949). In some cases the reference is to the whole statute, in others to certain of its provisions specified in the third column of the schedule.

Section 1 (2) provides that nothing in s. 1 (1) is to be construed as applying to any proceedings for the prosecution of a person on indictment or to any proceedings under the Summary Jurisdiction Acts.

Section 1 (3) is of particular importance to that poor old willing pack-horse, the court of summary jurisdiction, " Where any person would, but for subsection (1) of this section, have been liable to a forfeiture or penalty, he shall be liable on summary conviction to a fine not exceeding £100 and, in addition, to any non-pecuniary forfeiture to which he would have been liable as aforesaid." Subsection 1 (3) is not to apply, however, if a person is otherwise liable in respect of the same offence to conviction, summarily or on indictment, either in addition to or in substitution for his liability to forfeiture or penalty.

Subsection 1 (4) is important in that it provides that any enactment as to the burden of proof in proceedings precluded by s. 1 (1) or as to what constituted a defence in such proceedings is to apply for the purpose of proceedings brought in future by virtue of s. 1 (3).

By s. 1 (5) the Crown is equally prevented from bringing proceedings as a common informer.

The Act is to come into operation on September 1, 1951.

The Criminal Law Amendment Act, 1951

This is a short statute making amendments which will be generally approved in the Criminal Law Amendment Act, 1885, ss. 2 and 3. These sections deal with the procuration of women and girls. As enacted they afforded no protection to women who were common prostitutes or of known immoral character or to any women whose usual place of abode in the United Kingdom was a brothel. The changes are effected quite simply by omitting from s. 2 (1) and s. 3 (2) the words "not being a common prostitute or of known immoral character" and from s. 2 (4) the words "(such place not being a brothel)."

The Act was passed on June 22, 1951, and is to come into force "at the expiration of one month beginning with the date of its passing," *i.e.*, on July 22, 1951.

The Fraudulent Mediums Act, 1951

Yet another criminal statute which was passed on June 22, 1951, is the Fraudulent Mediums Act, 1951. It repeals the Witchcraft Act, 1735, so far as it was still in force, and repeals also s. 4 of the Vagrancy Act, 1824, so far as it extends to persons purporting to act as spiritualistic mediums or to exercise any powers of telepathy, clairvoyance or other similar powers, or to persons who, in purporting so to act or to exercise such powers, use fraudulent devices.

To take the place of the repealed provisions we have a provision in s. 1 (1) of the Act as follows:

"Subject to the provisions of this section, any person who (*a*) with intent to deceive purports to act as a spiritualistic medium or to exercise any powers of telepathy, clairvoyance or other similar powers, or (*b*) in purporting to act as a spiritualistic medium or to exercise such powers as aforesaid, uses any fraudulent device, shall be guilty of an offence."

No person may be convicted of such an offence unless it is proved that he acted for reward; and he is deemed so to act if any money is paid, or other valuable thing given, in respect of what he does, to him or to any other person.

The maximum punishment is (*a*) on summary conviction a fine of £50 and/or four months' imprisonment, (*b*) on conviction on indictment a fine of £500 and/or two years' imprisonment.

It must be remembered, therefore, that the proceedings are regulated by s. 28 of the Criminal Justice Act, 1948, and that if it is desired that the proceedings should be under the Summary Jurisdiction Acts the defendant has the right under s. 17 of the Act of 1879 to claim trial by jury.

There are two other provisions to be borne in mind. The first is that by s. 1 (4) no proceedings may be brought in England or Wales except by or with the consent of the Director of Public Prosecutions. The second is that by s. 1 (5) anything done solely for the purpose of entertainment is outside the scope of the Act.

Taking the Plea

The importance of making sure that a defendant who pleads guilty really understands the charge and means what he says, was illustrated in a case at Maidstone Assizes, in which a young man of eighteen pleaded guilty to wounding a bank cashier with intent to murder.

Counsel for the defence said that the prisoner at the time of the shooting had no specific intention of killing the cashier but he had always said he was reckless, whether he killed him or not and really did not care. Mr. Justice Byrne said there must be an intention, and on his suggestion the case was put back for the plea to be reconsidered. After an interval, the prisoner again pleaded guilty and was sentenced to seven years' imprisonment.

This was a grave charge, but the principle of making sure that the defendant understands what he is doing applies also to the everyday cases heard in the magistrates' courts. It is unsatisfactory for everybody if, after a plea of guilty has been accepted, and the time comes for the defendant to speak for himself, it transpires that he has not understood the charge, or that he thought it would be better for him if he pleaded guilty. It is rather irritating for the court to have to begin all over again, and rather confusing for the defendant.

It would, of course, be quite wrong to give any appearance of advising a defendant to plead guilty. We have even heard of a charge of drunkenness being put to the defendant in the form of the question: "Were you sober?" The reply was sometimes "Well, I had had a few drinks," which provoked the further question: "Do you mean you were drunk?" A man who felt he was not really drunk, but could not honestly say he was quite sober might well think he had better admit he was drunk.

It has always seemed to us that the charge should be put in plain language, with an explanation if necessary, and that the defendant should be invited to plead guilty or not guilty to the whole charge, not a little at a time. If there is any reservation attached to a plea of guilty, or any doubt about its genuineness, the only proper course is to proceed as on a plea of not guilty.

H.M. Inspectors' Report

The report for the year ended September 30, 1950, has recently been published. There are three inspectors, a fourth having been seconded as police adviser to the Secretary of State for the Colonies; a female assistant inspector and one male and one female staff officer make up the inspectorate personnel for England and Wales.

No further amalgamations of forces occurred, but agreement was reached over the jointure of the county forces of Anglesey, Caernarvon and Merioneth with effect from October 1, 1950. Since the date of the report the Leicestershire and Rutland constabularies have been combined.

On October 1, 1949, the authorized male establishment of police in England and Wales, excluding the Metropolitan force, was 50,507. The actual strength was 42,699, a deficiency of 7,808, but 214 of these vacancies were temporarily filled by first police reserve constables.

Authorized establishment had risen to 51,116 by September 30, 1950, and the number recruited 45,148 (*i.e.*, 5,968 vacancies). First police reserves filled 206 vacancies temporarily. In September, 1939, on an establishment of 43,870 the actual strength was 42,531; there were 1,339 vacancies.

During the year 2,806 men left; 816 were probationers, 446 withdrew before qualifying for either pension or gratuity, 1,447 retired on pension and ninety-seven left for other reasons. The return for the month of September, 1950, shows that of 399 men appointed, the wastage was 262.

The number of policewomen has now risen from ninety-nine in September, 1939, to 1,008 and civilian employees to 4,924. The report continues: "The general efficiency . . . has also been steadily improved by marked progress in training of all kinds and by the steady development in mechanical and scientific aids, including the provision of wireless cars . . ." Cadets employed number 1,021 and special constables 60,336." It is now recognized that suitable women could render valuable services in the capacity of special constables, and 110 women were so enrolled during the year . . . The number of special constables in September, 1938, was 120,361, excluding the Metropolitan police area.

Population in England and Wales (outside London) increased from 31,746,695 in 1939 to 35,407,753 in the year under review. Crimes rose in the same period from 303,771 to 459,869. Offences of robbery increased from 689 in 1948 to 817 in 1950, and there was a rise of thirty-nine cases of robbery with violence.

Twelve hundred houses for police were completed compared with 809 in the previous year, and 151 dwellings were purchased by police authorities. " The fact remains, however, that there are still far too many married police officers without proper accommodation . . ."

The report adds : " The county, city and borough forces . . . have been inspected as directed by the County and Borough Police Act, 1856 ; it has not been found necessary to report adversely upon any force in such terms as to prejudice its claim to the Exchequer Grant."

Escapes from Borstal Institutions

A statement in the press that two boys who absconded from the institution at Hollesley Bay, and were rescued from a drifting dinghy, escaped again and were again recaptured, naturally excites comment.

The public is by no means unsympathetic to experiments in open borstals and prisons, provided the utmost care is taken in the selection of those assigned to them. Even with the exercise of such care there will always be occasional mistakes, but what causes uneasiness is the number of escapes, coupled with the number of crimes committed by those now commonly called escapees, whom we prefer to call absconders, escapers or run-aways. People living near an open institution become alarmed, and much police time is expended in search and capture.

It is much to be hoped that prompt measures will be taken to remedy the present state of affairs, otherwise those people who advocate a return to close confinement and generally severer treatment will find increasing support. It would indeed be a pity if the good work that can undoubtedly be done in open borstals were brought to naught. It need not be, but it does seem that there is something wrong if an absconder can make a second getaway within a few days instead of being immediately confined in some place from which he cannot escape.

The Public Milch Cow

Our note on aldermen at p. 385, *ante*, had gone to press before the convictions of three north country aldermen and one ex-alderman for frauds upon the public in the matter of expense claims. We had in our hands a number of local newspaper cuttings, recording such stages of their sordid stories as were earlier made public, but had refrained from comment, pending the initiation (and now conclusion) of the prosecutions. The episodes have no bearing upon the merits of aldermen as an institution, for the convicted men might just as well have been the same number of councillors : in fact, the northern newspapers which first apprised us of the matter contained extracts from a district auditor's report, in much the same sense, about urban district councillors. The whole unsavoury disclosure has a bearing upon the attitude of the public towards frauds on public funds. One of the convicted men was in the middle sixties, a fact which led to expressions of unreasoning sympathy, and the " national " newspapers concentrated upon his claim for the price of a glass of brandy, a trivial matter by comparison with the really significant thing that he had signed written claims for loss of remunerative time spent in attending meetings, when he was receiving an annual salary in a government appointment, and indeed had on some occasions been paid subsistence allowance by the government as well as by the council. The matter came to light through an extraordinary audit, at which he seems to have contended that these claims were regular. None of the convicted men seems to have seen anything wrong, or even anything unusual, in making claims for money they had not lost or spent, and they are said by the local newspaper to have regarded it as " very unfair " that they should have been asked for explanations. Much in point is a remark recently made at Washington by Senator Fulbright, quoted in the current News Sheet of the Bribery and Secret Commissions Prevention League : " Scandals in government are nothing new ; what is new is the moral blindness or callousness which permits those in responsible positions to accept the practices which the facts reveal."

At another audit reported in the same newspaper, the chairman of a different council was stated by the auditor to have claimed an allowance for lost time in respect of attending at the council's office to open tenders, when in fact he had not been there. Of other councillors the auditor remarked : " Sums claimed by councillors for subsistence were, in some cases, for longer periods than appeared to be necessary to perform the approved duties, but on the attention of the councillors being called to the matter sums of £7 2*s*. 6*d*. were refunded to the audit. A sum of £3 18*s*. was also refunded to the council by an official for the same reason . . . Claims had been submitted by Councillor C for allowances totalling £7 which were found to be untrue, as no loss of earnings had been suffered. I accordingly surcharged this sum against him. Similar claims by him are known to have been paid during 1950-1 for days on which no loss of earnings was suffered. They will all be dealt with when the audit for 1950-1 is held, unless the amounts wrongly claimed are refunded before then . . . Payments of £24 had also been made to Councillor C in respect of claims for performing ' approved duties ' for which there were no minutes of the council which could be recorded as having entitled him to carry them out."

The district auditor says that after discussions with this councillor and the officials he came to the conclusion that there had been a misunderstanding of the law on this matter, and that the councillor had thought that " whenever he acted for the council, even without its direction, he was entitled to claim £1 per day for loss of earnings." That any person holding a public position could entertain this belief seems next to incredible, but the auditor, after all, had heard the man's own story. When the Minister of Health (at that time Mr. Bevan) wrote asking whether the council had considered a prosecution, the council replied that no further action would be taken, and there was denunciation of an " unfair and un-British " taking away of characters. We are moved to quote Senator Fulbright again : " It is bad enough to have corruption in our midst ; it is worse if it is to be condoned and accepted as inevitable." In short, we have here as perfect an example as could be desired of the attitude " Everybody's doing it," of which we spoke in a long article on juvenile delinquency at 114 J.P.N. 261.

Covenants for Street Charges : A Grievance

Much can be said against the law affecting the making up of private streets. When the present scheme of s. 150 of the Public Health Act, 1875, and of the Private Street Works Act, 1882, was devised, there was more than can be said today, in favour of throwing upon frontagers the expense of making up streets for the general benefit. With modern heavy traffic, the frontager is often required to pay charges out of all proportion to his own possible use of and advantage from the street, and street works have become a tax upon the development and ownership of land. The mischief of the situation is that putting the cost upon the community at large would mean that those who had already

paid for their own streets would pay afresh, for other people's, and so the system stays fundamentally unaltered. Attempts made from time to time to mitigate its worst features have been useful so far as they have gone, but essentially have been no more than palliatives. One of the grievances sometimes experienced (though not by any means the most serious) is dealt with in the two recent local Acts of which we spoke at p. 401, *ante*. Between the two world wars, when the private building of houses was a familiar practice, and persons of small means could buy them from the builder, with the aid of mortgages or otherwise, the conveyance often contained a covenant by the builder to indemnify the purchaser against charges for private street works, which in due course would be payable when the street was made up and taken over by the local authority. It was not unknown for the builder then to fail in business, or to die, before the time came to hold him liable upon his covenant; there were also a few bad cases of deliberate fraud, where a builder absconded after receiving for the houses he sold a price enhanced by his covenant to reimburse the purchaser's private street works charges. Where the covenant proved unenforceable, whether by reason of a fault or of a misfortune of the builder, the purchaser (in effect) had to pay those charges twice. We do not know whether it is a symptom of faith in the revival within measurable time of pre-war practices in house-building, that has moved the city council of Birmingham and the town council of Wolverhampton to obtain special statutory power to reduce the risk of similar misfortunes for house-purchasers in future.

Compulsory Purchase and Short Tenancies

Our receiving almost at the same time two Practical Points (upon different facts) where s. 121 of the Lands Clauses Consolidation Act, 1845, and s. 3 of the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, had to be considered together, reminded us that there seems to be no judicial authority upon the relation between these two enactments. And this is curious, for local and other public authorities acquiring properties by compulsory purchase have now for a full generation had the experience of finding cottages upon those properties occupied by tenants protected by the Rent Restrictions Acts. Such an occupier would not ordinarily receive a notice to treat : indeed, in *Syers* v. *Metropolitan Board of Works* (1877) 36 L.T. 277, Jessel, M.R., sitting as a judge of first instance, upheld by the Court of Appeal, held that a tenant for a year or less was not entitled to notice to treat under s. 18 of the Act of 1845. We do not consider that the Acquisition of Land (Authorization Procedure) Act, 1946, has altered this, which accords with the general idea of the legislation : the purchaser obtains, by compulsion, the freehold and interests less than freehold for which he cannot reasonably be expected to wait. It will not, as a rule, hurt him to wait for the short period involved in turning out a weekly, monthly, or quarterly tenant by an ordinary notice to quit ; where he does want to turn out a short period tenant, without waiting for notice to quit to expire, he can use s. 121 of the Act of 1845, and pay compensation—which, in the circumstances envisaged in 1845, would be very small.

IDENTIFICATION BY PHOTOGRAPH

[CONTRIBUTED]

Regulations have been made by the Secretary of State for the better identification of criminals which relate to the measuring and photographing of accused persons who may be for the time being confined to prison. The prisoner can be photographed either in prison dress or in any other dress suitable to his position in life. An untried prisoner may be photographed by order of the governor of the prison or upon application in writing made by a police officer if the prisoner makes no objection. If there is objection, the application must be confirmed by the Secretary of State or a justice of the peace. If such a prisoner has no previous convictions, and is subsequently acquitted, the photographs must be forthwith destroyed or handed to him.

When photographs are taken, the prison governor forwards them to New Scotland Yard, and so is built up a system which assists in the identification of persons who have been previously convicted. It is also useful in establishing the identity of a person in cases where a witness is in a position to corroborate the suspicions of the police by recognizing that person from a photograph.

Showing photographs to witnesses who afterwards attend identification parades has from time to time been commented upon and doubted. There are a number of cases relating to the question of identification, but running through them can be found a very definite line of procedure.

It has been argued that the evidence of a witness who has attended an identification parade after he has seen photographs cannot be relied upon as he may pick out the person whose photograph he has seen rather than the person he saw in the first instance. On the other hand, however, the alternative may be considered much more unsatisfactory for it would mean the witness identifying the accused in the dock. In any event the identification parade frequently takes place long after photographs have been shown to the witness.

It is, of course, permissible to show to witnesses photographs in the form of a book which has been approved by the Court of Criminal Appeal (*R.* v. *Melany* [1924] 18 Cr. App. R. 2). A series of photographs are shown and not just a single one.

Generally speaking, the fact that the police are in possession of a photograph of the accused person should not be disclosed to the court or jury for very obvious reasons, but whether the defendant or his representative should be told of photographic identification is a matter which can only be decided upon the facts appertaining to each case.

The Court of Criminal Appeal has made two points very clear. (1) Where other methods of identification are unavailable, photographs can be shown to a witness when no one is under arrest. (2) If a person is under arrest a photograph should not be shown to a witness.

Put even more plainly it means that if the police require assistance in the identification of some person because they have some doubt in their minds, photographs may be shown in order to obtain information about a particular person. If the fact that photographs have been shown to a witness becomes apparent at the trial it will not necessarily mean acquittal on appeal. In the case of *R.* v. *Palmer* [1914] 10 Cr. App. R. 77, the witness was shown photographs at the police station and later the same day picked out the accused at an identification parade. It appears that the greater part of the evidence relating to this matter was brought out by the defence, and the Court of Criminal Appeal held that as the jury had been warned most carefully not to be prejudiced by this evidence the application for leave to appeal was dismissed.

The case of *R.* v. *Varley* [1914] 10 Cr. App. R. 125, decided that if such a photograph as aforesaid is produced, care should be taken that the jury should not know that it has come from the police.

On these two cases, therefore, it follows that identification at a parade after identification by photograph is not the same thing as identification on parade without the aid of a photograph, and it is not proper to let either the justices or the jury know that the parade follows the photograph. If the question of the photograph is brought out in evidence it should be done by the defence and not the prosecution.

It is wrong for the police to show a photograph of a convicted person to a witness whose identification is all important and then to confront the witness with that person in court whilst the latter is in the dock. The witness would be almost certain to pick out the accused who would be standing in a comparatively conspicuous position, and the argument must be that the witness may pick him out as the person he had seen in the photograph rather than the one he had seen at the time of the incident. In some cases such a witness might be further prejudiced by having seen in the photograph the accused person wearing prison clothes and an identification number on him.

With regard to production in court of the photographs from which a witness has identified a particular person, the remarks of Lord Chief Justice Hewart in his judgment in the case of *R.* v. *Wainwright* [1925] 19 Cr. App. R. 51 sum up the matter quite clearly and unmistakably. In this particular case two witnesses were shown by the police an album of photographs and picked out the photograph of the accused. Upon an identification parade, however, one of the witnesses failed to pick him out. The facts relating to what had happened were placed before the court by the prosecution, and the police album was shown to the jury open at the appropriate page. The Lord Chief Justice quashing the conviction said : " It may well be that if Counsel for the defence takes a certain course or asks certain questions, police photographs may have to be produced to the jury. But it is unheard of that police photographs, and the identification of a defendant by means of them, should be put forward by the prosecution as part of its evidence in chief."

The alternative to showing photographs to witnesses has already been referred to, but the defence are quite entitled to say that identification of the accused after identification by photograph may well detract from the worth of that particular piece of evidence. In making up their minds on the facts of a case it is for the jury to decide how much weight they will attach to such testimony having regard to all the circumstances.

" PROSECUTOR "

CHIEF CONSTABLES' ANNUAL REPORTS, 1950

(*Continued from p. 359, ante*)

28. DERBY

The area is 8,133 acres and the population 143,520. Authorized establishment is 218, including seven policewomen and the actual strength 216. Thirty-one civilians are engaged with the force. Entrants during last year were twenty ; retirements and resignations totalled nineteen. The special constabulary strength is 104.

Indictable offences were 979, the year before there were 1,231 ; fifty-nine *per cent.* were detected. The value of property stolen was £12,207 compared with £12,036 in 1949 ; the amount recovered was £4,260 and £2,285 respectively. The number of detected crimes committed by juveniles increased from 138 to 149, that is twenty-five *per cent.* of the total detected.

Seven people were killed in road accidents and 470 injured ; in addition there were 904 accidents not involving personal injuries.

There are 365 licensed premises, and eighty-two registered clubs, with 47,606 members. Charges of drunkenness were 245 an increase of seventy-seven compared with the 1949 figure. Two licensees were prosecuted for infringements of the liquor laws.

29. CAMBRIDGE

The area is 10,060 acres and the population 90,590. Establishment is 160 and the actual number engaged 143, including five policewomen. Nineteen applicants were accepted compared with nine the year before.

Crimes totalled 730, eighteen less than the year before ; sixty-two *per cent.* were detected. Twenty-three juveniles were dealt with, compared with fifty-four in 1949.

The number of people killed and injured in road accidents was 459, one less than the year before. The number of accidents involving injury rose by twenty-two to 416 ; there were four fatal accidents, a decrease of eight.

Licensed premises total 236 and there are fifty-nine registered clubs. Two women and twelve men were charged with drunkenness, an increase of five.

30. WOLVERHAMPTON

The population is 160,000 and the area 9,126 acres. Authorized establishment is 223 and the actual number engaged 179. During the year twenty-six probationers were selected and retirements numbered nineteen. Civilian staff number nineteen.

Indictable offences number 2,591 against 2,000 in 1949. Juvenile offenders rose from 273 in 1949 to 303 last year. The value of stolen property was £37,258 and recovered £19,095 ; the figures for the previous year were £20,324 and £5,748 respectively.

Road accidents resulted in fourteen fatalities, 528 people injured and 885 collisions causing damage only.

31. BRISTOL

The population is 439,840 and the area 24,406 acres. Authorized establishment is 834, including twenty policewomen, and the actual number engaged at the end of the year 588 and fifteen policewomen. The civilian staff number 140. Applicants totalled 429, but the intake was eighty-nine.

Indictable offences numbered 3,991, a decrease of approximately 500 on the 1949 figure. Juveniles dealt with for criminal offences were 289 against 393 the year before.

During the year thirty-one fatal road accidents occurred and 1,874 people were injured.

32. BLACKBURN

The population is 122,791 and the area 8,088 acres. Establishment is 183 including five policewomen, and the present strength 162. In addition, twenty-two civilians are employed with the

force. The effective strength of the special constabulary is fifty-six.

Crimes totalled 575 of which sixty-seven *per cent.* were detected, compared with seventy-eight *per cent.* in 1949, when there were 626. Property to the value of £5,348 was stolen and £1,119 worth recovered.

Road accidents caused seven deaths and injuries to 194 people, compared with the year before there is an increase of one fatality and eleven persons injured.

33. NORWICH

The area is 7,923 acres and the population 126,236. Establishment is 197 and the actual strength 183. The intake during the year was twenty-four, against this fifteen men left, three to retire on pension. There are five policewomen. Special constables number 119.

Indictable offences totalled 1,006 an increase of four. Sixty *per cent.* were detected. Property stolen amounted to £12,130, and recovered £4,451. Juveniles dealt with for criminal offences were 132, eight more than in the previous year.

Road accidents numbered 1,543 against 1,375 in 1949 and 2,602 in 1939. Seven people were killed, a decrease of three compared with the year before, and 220 were injured.

There are 412 licensed premises in Norwich. Forty-four men and five women were charged with drunkenness, two more than in 1949.

34. BRADFORD

The population is 298,692 and the area 25,526 acres. Authorized strength is 571 including five women, and at the end of the year there were sixty-six vacancies. Applicants numbered 203 and sixty-one were selected for appointment.

Criminal offences aggregated 3,300, a decrease of six compared with the year before; forty-four *per cent.* were detected. The value of property stolen was £49,858 and recovered £18,121. Juveniles dealt with for indictable offences totalled 259.

There were 3,207 road accidents causing twenty-one deaths and injuries to 1,038 people. During 1949 twenty-three persons were killed and 967 injured.

Licensed premises number 828 and there are 152 registered clubs with 76,570 members. Charges of drunkenness were made against 599 men and thirty-one women.

THE NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT, 1949

By GRAEME FINLAY

(*Concluded from p. 372, ante*)

ACCESS TO OPEN COUNTRY

The report of the National Parks Committee (Comd. 7121 of 1947) made broad recommendations as to rambling access. It considered that the freedom to wander over mountain, moorland, rough grazing and other uncultivated land was essential to the enjoyment of National Parks. In the past this type of access had usually only been enjoyed with the tacit consent of the owners and occupiers and not as a legal right.

It was the view of the committee that public access as of right should be established over all suitable land such as the above, but not where this would seriously conflict with other essential uses.

The committee considered various categories of land over which rambling might have to be prohibited or limited.

These were: plantations of young trees, in which the danger of fire and other damage might be increased by public access; land in the immediate neighbourhood of catchment areas or in certain parts of catchment areas where the purity of water supplies might be at stake, land used for military training, where firing or unexploded missiles might be a danger to the public; mines and quarries which are being worked; nature reserves in which rare or shy species must be protected from disturbance; gardens and private grounds of dwelling houses or institutions, airfields, golf courses, race courses, playing fields and similar private open spaces.

The committee also considered the claims of other interests (notably sporting) which might be adverse to such access as of right. For example the owners and tenants of some grouse-moors claimed that unrestricted freedom for the public to wander over them would disturb the grouse during the breeding or shooting season. As these moors provided some of the most attractive land for rambling in the country the committee felt, however, that it was essential that access to them for this purpose should in some measure be secured.

Part V of the Act makes legal provision for access to open country and replaces and modifies the provisions of the Access to Mountains Act, 1939, which is repealed.

Section 59 of the Act defines "open country" as "any area appearing to the responsible authority to consist wholly or predominantly of mountain, moor, heath, down, cliff or foreshore (including any bank, barrier, dune, beach flat or other land adjacent to the foreshore)."

The objective of these provisions is to enable public access for open-air recreation (which expression excludes by definition organized games) to open country in respect of which access agreements or orders have been made or which has been acquired under Part V of the Act for the purpose of giving the public access thereto (s. 59 (1)).

Section 64 deals with access agreements, and provides that a local planning authority may, with the approval of the Minister, make an access agreement with any person having an interest in open country land in their area and for the making of payments by

such authority in respect thereof to the owner or person interested. It may be noted that special protective provisions have been made in respect of woodlands (s. 79 (2) (*b*)) and Danger areas (s. 80 (3)). The question of access orders is provided for in s. 65. This enables the local planning authority to make an access order subject to confirmation by the Minister. It is important to notice that the authority may not make such an order :

(a) If agreements are in force which in the opinion of the authority already give adequate public access to the land or (b) where there are no such agreements in force unless it appears to the authority impracticable to secure them.

Subsection (3) of the same section provides for access orders to contain definitive maps and other requisite descriptive matter. In the case of access orders to land in a national park the local planning authority must first consult with the National Parks Commission (subs. (5)). There are also protective provisions in respect of woodlands (s. 79 (1)) and danger areas (s. 80 (1) (2)) in the case of these orders.

Section 60 defines the position of the public where access agreements or orders are in force in the following manner : ". . . A person who enters upon land comprised in the agreement or order for the purpose of open air recreation without breaking or damaging any wall, fence or hedge or gate, or who is on such land for that purpose after having so entered thereon, shall not be treated as a trespasser on that land or incur any other liability by reason only of so entering or being on the land . . ."

The section then proceeds to safeguard various categories of land including " excepted land " and to prohibit certain kinds of user.

" Excepted land " includes (*inter alia*) agricultural land, parks, gardens, or pleasure grounds, and lands used for surface mineral working or for the purposes of a golf course, race course or aerodrome.

General restrictive provisions are applied by subs. (4) to be observed by persons having access to land under the section. These (set out in sch. 2 to the Act) include provisions as to the taking of vehicles, lighting of fires, taking of dogs, interference with animals, birds or fish, or injury to eggs or nests and numerous other matters.

Finally, by s. 76 of the Act, local authorities are enabled to acquire open country land (other than excepted land) compulsorily for public access in accordance with s. 103.

The right of the landowner or other person interested to compensation in respect of depreciation due to access orders is preserved by s. 71 which enables claims for compensation and interest.

CLERICAL FEES IN BURIAL GROUNDS

Where a burial ground has been provided under the Burial Acts, or a cemetery under the Public Health (Interments) Act, 1879, there will normally be a consecrated portion designed primarily for burials according to the rites of the Church of England, and an unconsecrated portion for other people. Both portions are, historically, the successors of the parish churchyard, in which every parishioner has a right to burial, though until modern times he had no right to be buried there except with Church of England rites. Here was a hardship upon persons professing other faiths, or none : Roman Catholics, Jews, and protestant dissenters had provided their own grounds where they were numerous enough to be able to afford them, but their difficulties about having a burial ceremony conducted by their own ministers, especially the difficulties under this head experienced by dissenting communities which by temperament tended to be fissiparous and were often poor, had much to do with the movement for establishing burial boards, whose provision of public burial grounds was, from another side, pushed forward by the filling up of parish churchyards. The Burial Act, 1852, for London, its extension to the provinces in 1853 ; the new rights given to persons not belonging to the Church of England by the Burial Act, 1880, and the partial tidying process of the Burial Act, 1900, form a chapter in English social history—a chapter including *odium theologicum* which must live still, closely interwoven with the controversy over disestablishment, in the memory of our older readers whose boyhood had a clerical background, or was spent even among the educated laity in country towns. Problems lingering from those old days still appear at times, in connexion with the payment of fees to an incumbent where a burial takes place in the consecrated portion of a burial ground provided under the Burial Acts or of a cemetery provided under the Public Health (Interments) Act, 1879, and we hear enough of the doubts which are expressed to think that an examination of the legal position may be helpful. We are, be it noted, speaking only of the consecrated portion of such grounds as we have mentioned, and we do not think that as regards fees—the matter with which we propose to deal—there is difficulty nowadays when a burial takes place, in pursuance of the right given by the Act of 1880, in consecrated grounds but without Church of England rites.

It might be thought that the likelihood was small of a demand for the burial in consecrated ground, where other ground is available, of a person over whom it is not desired to read the burial service of the Church of England, but in fact such cases are pretty common. A man may in accordance with the wishes of his deceased wife have her buried in consecrated ground with the Church of England service, and, from reasons of sentiment or economy, arrange that his own body shall in due course be buried with hers and yet as an atheist, Baptist, Buddhist, Jew, or as the case may be, may have conscientious scruples about the reading over his own body of a Church of England service. Accordingly, ss. 1 and 6 of the Burial Laws Amendment Act, 1880, provided that even in a churchyard or the consecrated portion of a graveyard the persons responsible for a burial might have it carried out with a religious ceremony conducted otherwise than according to the rites of the Church of England, or without any religious ceremony. The definition of " graveyard " clearly includes a burial ground provided under the Burial Acts, and seems also to include a cemetery provided under the Act of 1879, with the substitution of the chaplain if any (*see* below as to this) for the incumbent. Section 6 confines the substituted ceremony, if " religious " at all, to those of a Christian character. The status under the Act of 1880 of a Jewish ceremony, for example, is obscure : possibly a Jewish family using Jewish rites must under this Act be regarded as burying without a religious ceremony at all, which the Act expressly entitles them to do. It was, indeed, not the least of the innovations brought about by that Act, that burials without religious ceremony (rare though these were, and still are) were put upon a footing of legal equality—yet, in the generation which produced Jessel as well as Bradlaugh, and had seen the full efflorescence of the Rothschilds, it was scarcely less remarkable that non-Christian religious ceremonies were, so late as 1880, still put in a position technically inferior to those of Roman Catholics or protestant dissenters. Where the burial takes place in the

consecrated part of the ground, either with a religious ceremony which is not that of the Church of England or without religious ceremony, the latter part of s. 5 of the Act of 1880 gives the incumbent the same right to a fee as if the Church of England service had been used. This, it may in passing be remarked, was a very British compromise. Sections 1 and 6 sprang from a grievance felt bitterly by protestant dissenters, and to some extent by Roman Catholics, at being refused facilities for using their own burial service where no place of burial existed apart from the parish churchyard. When new rights were given there, the same right was given in the consecrated portion of a burial ground—illogically perhaps, since the unconsecrated portion was available, but see what is said above, about cases where a person not wishing for a Church of England ceremony yet wishes to use Church of England ground. Parliament, conceding all this, still felt that the vested right of the incumbent to a fee ought to hold good, and preserved it in s. 5 accordingly. This vested interest was swept away by the proviso to s. 3 (4) of the Burial Act, 1900, as from the close of the incumbency of the person then entitled.

The Public Health (Interments) Acts, 1879, as originally passed, incorporated the provisions of the Cemeteries Clauses Act, 1847, which amongst other things provided for cemetery companies to appoint chaplains and gave the incumbent and sexton no rights in a cemetery provided by a company. Section 5 of the Burial Act, 1900, repealed so much of the Cemeteries Clauses Act, 1847, as provided by incorporation with the Act of 1879 for appointment of a cemetery chaplain, and directed that s. 32 of the Burial Act, 1852, should apply instead. The position, therefore, as regards a cemetery in the sense of a cemetery provided under the Act of 1879, the most common case where local authorities do not work under the Burial Acts, is that the incumbent of the parish (or each of a group of parishes) for which the cemetery is provided has the same right to fees as if the cemetery was a burial ground provided under the Burial Acts. The sexton has in a cemetery under the Act of 1879 no such right or duty as are, in the consecrated portion of a burial ground properly so called, preserved to him by the Burial Acts —*i.e.*, a duty to dig a grave if required to do so, and to be paid for the job.

So far, the position is reasonably clear. The Acts from 1852 to 1900 did not reproduce in a burial ground provided for a parish or several parishes (it was naturally thinking of ecclesiastical parishes) the incumbent's rights of selling grave spaces, taking fees for the erection of monuments, and so forth, which had existed in his churchyard, but as regards the consecrated portion of the burial ground he retained his old duty to perform the funeral service of the Church of England at the burial of a parishioner (in the broad sense of a person dying in the parish) and to be paid for doing so. Where the burial ground is provided for more parishes than one, this right and duty are attached to the incumbent of the parish where the person died. Executors or other persons who arranged the funeral had until 1880 no right to insist that a burial service should be read by any other person than the incumbent, but could employ another clergyman of the Church of England with the consent of the incumbent and also, if that other clergyman was not already licensed to peform his functions in the diocese, the consent of the bishop. In this comparatively simple state of things, it followed that the outside clergyman (doing something with the incumbent's consent, which the incumbent had not only a right but also a duty to do) could be treated as doing it on behalf of the incumbent just as much as if the service was read by the incumbent's curate. The proper fee according to the usage of the parish, which has since become a fee fixed by the Secretary of State, went to the incumbent no matter who performed the ceremony : s. 32 of the Act of 1852 by implication, and s. 3 of the Burial Act, 1900, explicitly, directed the burial board to collect this fee, and pay it to the minister or sexton. The "minister" here must, it seems, be the incumbent of the parish. It is open to the incumbent to make an arrangement with his curate or with a visiting clergyman, and of course it is open to the executors or family to pay a clergyman brought in by them any fee they wish, over and above that they have to pay to the burial board for payment over to the incumbent. The view that where the Church of English service is used the fee goes to the incumbent of the parish in which death took place, if that parish is one for which the burial ground or cemetery is provided, is supported by the case of *Wood* v. *Headingley cum Burley Burial Board* (1892) 56 J.P. 326. Here the burial board had apparently been in the habit of handing over fees to Church of England clergymen who actually did the work, some of whom at any rate had done it without the requisite consent of the incumbents concerned or the bishop. The proceedings were taken by the incumbents of all parishes for which the burial ground was provided, to establish their right to receive the fees ; the court pointed out that it was an ecclesiastical offence for a Church of England clergyman to perform the burial in the consecrated part of the burial ground without the consent of the incumbent, and that the burial board in such cases ought not to connive at that offence by paying the visiting clergyman the fee. The view of the law taken in this article, based upon that decision and upon our reading of the statutes, is supported by a considered opinion published in 1939 by the Legal Board of the Church Assembly, for which it is stated that all members of the Legal Board shared responsibility. The Legal Board at that time included the Dean of the Arches, as well as Sir William Graham Harrison, several Chancellors of Dioceses, and other leading authorities.

WEEKLY NOTES OF CASES

KING'S BENCH DIVISION

(Before Lord Goddard, C.J., Sir Raymond Evershed, M.R., Somervell and Jenkins, L.JJ., Hilbery, Lynskey and Devlin, JJ.)

June 25, 26, 1951

WILLCOCK v. MUCKLE

National Registration—Identity card—Refusal to produce—Duty of police—National Registration Act, 1939 (2 *and* 3 *Geo.* 6, *c.* 91), *s.* 6 (4), *s.* 12 (4).—

Case Stated by Middlesex justices.

At a court of summary jurisdiction at Highgate an information was preferred by the respondent, Police-constable Harold Muckle, against the appellant, Clarence Henry Willcock, alleging that on December 7, 1950, at Finchley, the appellant failed to produce his identity card when required to do so by the respondent, contrary to s. 6 (4) of the National Registration Act, 1939. At the hearing of the information the following facts were proved before the justices. On December 7, 1950, at Ballard's Lane, Finchley, the appellant, while driving his motor-vehicle, was stopped by the respondent, who was in uniform. The respondent asked the appellant to produce to him his national registration identity card, which the appellant refused to do. The respondent told the appellant that he would issue to him a form to produce his identity card at any police station within two days, and the appellant replied : "I will not produce it at any police station and I will not accept the form." The respondent gave the form to the appellant, who threw it on to the pavement, from which another police-constable picked it up and placed it in the appellant's motor-vehicle. The appellant did not, within the prescribed period, produce his identity card at a police station or to any police officer. The justices were of the opinion that no Order in Council or other enactment had been passed repealing s. 6 (4) of the National Registration Act, 1939 ; that,

pursuant to r. 20AB of the Defence (General) Regulations, 1939, s. 6 (4) of the National Registration Act, 1939, was substituted by sub-para. (4) of r. 20AB of the regulations of 1939; and that pursuant to the Emergency Laws (Continuance) Order, 1950 (Statutory Instrument, 1950, No. 1770), dated November 2, 1950, reg. 20AB of the Defence (General) Regulations, 1939, was to continue in force for a further period of one year until December 10, 1951, unless previously revoked. They accordingly convicted the appellant, but granted him an absolute discharge. The appellant appealed.

Held (SIR RAYMOND EVERSHED, M.R., and DEVLIN, J., *dubitantibus* on the construction of the statute) that, to bring to an end any one of the Emergency Acts of 1939 in which the formula used in s. 12 (4) of the National Registration Act was used, there must be a particular Order in Council dealing with the particular Act, and that, as there had been no Order in Council terminating the National Registration Act, 1939, it could not be said to have been terminated. The appeal, therefore, must be dismissed.

Per curiam: The National Registration Act, 1939, was passed as a measure of security and not for the other purposes for which it is now sometimes sought to be used. To use Acts of Parliament passed in war-time for particular purposes now that war had ceased was most undesirable. It was obvious that the police now, as a matter of routine, demanded the production of an identity card whenever they stopped or interrogated a motorist for whatever cause. If they were looking for a stolen car or had reason to believe that a particular motorist was engaged in committing crime, it was one thing, but to demand a card from all and sundry was wholly unreasonable.

Counsel: for the appellant, *Marshall, K.C., E. O. Roberts*, and *Wigoder*; for the respondent, *Vernon Gattie*; as *amici curiae*, the Attorney-General (*Sir Frank Soskice, K.C.*) and *J. P. Ashworth*.

Solicitors; *Lucien Fior*; *Solicitor, Metropolitan Police, Treasury Solicitor*.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

(Before Lord Goddard, C.J., Lynskey and Devlin, JJ.)
June 15, 28, 1951

SLATCHER *v.* GEORGE MENCE SMITH, LTD.

Merchandise Marks—False trade description—Statutory defence—"Otherwise . . . acted innocently"—No finding of inadvertence or mistake—Merchandise Marks Act, 1887 (50 *and* 51 *Vict., c.* 28), *s.* 2 (1).

CASE STATED by Kent justices.

At a court of summary jurisdiction at Ashford, Kent, an information was preferred by the appellant, William John Slatcher, an inspector of weights and measures for the county, against the respondents, George Mence Smith, Ltd., charging them with having sold certain goods, namely paraffin, to which a certain false trade description was then applied, contrary to s. 2 of the Merchandise Marks Act, 1887. On December 8, 1950, one Frederick Smart, an inspector of weights and measures, entered the respondents' shop at Ashford bringing an empty five-gallon can and asked the manager for two gallons of paraffin. The manager took the can away and brought it back containing paraffin. At Smart's request the manager gave him a receipt which read: "2 gall. oil, 3*s.* 0*d.*" The appellant then entered the shop and in the presence of the manager the can was measured, and the quantity of paraffin in it was found to be twenty-nine fluid ounces (nearly a pint and a half) short of two gallons. The respondents supplied their manager with suitable measures and funnels for measuring oil and filling customers' receptacles, and their representatives visited the premises once a week or once a fortnight for the purpose of inspection. The manager had been in the respondents' employ for thirty-five years and had been instructed in the proper use of measures. The respondents contended that if they had acted in good faith and done all that was reasonably possible to prevent the commission of the offence they were entitled to be acquitted as having "otherwise" acted innocently within the meaning of s. 2 (2) of the Act.

The justices held that paraffin had been sold by the respondents to which a false trade description had been applied, but that the statutory defence under s. 2 (2) of the Act had been proved, and they dismissed the information. The prosecutor appealed.

By s. 2 (2) of the Act of 1887, "Every person who sells . . . any goods or things to which any . . . false trade description is applied . . . shall, unless he proves . . . that . . . he had acted innocently, be guilty of an offence against this Act."

Held, that on the authorities the words "had acted innocently" must be construed as meaning that he had acted inadvertently or under some mistake, and, as there was no finding by the justices of inadvertence or mistake, the case must be remitted to them with a direction that the statutory defence had not been proved and they must convict.

Counsel: for the appellant, *Vernon Gattie*; for the respondents, *Arthian Davies, K.C.*, and *Malcolm J. Morris*.

Solicitors: *Sharpe, Pritchard & Co.*, for *W. L. Platts, Maidstone*; *Lovell, White & King*, for *Swann & Co., Ashford*.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

(Before Lord Goddard, C.J., Hilbery and Ormerod, JJ.)
June 27, 1951

R. *v.* POOLE LICENSING JUSTICES. *Ex parte* MILLER

Licensing—Application for licence—Non-compliance with statutory requirements—Inadvertence or misadventure—Power to adjourn to later meeting—No power then to grant further adjournment—Licensing (Consolidation) Act, 1910 (10 *Edw.* 7 *and* 1 *Geo.* 5, *c.* 24), *s.* 10 (4).

APPLICATION for order of *mandamus*.

In 1948 the applicant, Leslie Stuart Miller, obtained a licence for premises known as the Dolphin Hotel, Poole, for three and a quarter years. The licence expired on July 5, 1951, and certain conditions were attached to it by the justices. On January 22, 1951, the applicant gave notice of his intention to apply at the annual general licensing meeting to be held on February 13, 1951, for a new licence subject to different conditions. At the annual general licensing meeting the justices expressed their opinion that the conditions to which the applicant suggested that the licence should be subject were impracticable, and advised that the better course would be for him to apply for a new licence unrestricted, and they adjourned the matter to the adjourned annual general licensing meeting on March 13, 1951. The applicant did not serve any new notices, and at the adjourned annual general licensing meeting the justices took the view that the application for a licence without restrictions was a new application in respect of which notices had to be served, but, acting under s. 10 (4) of the Licensing (Consolidation) Act, 1910, they gave the applicant the opportunity of making a further application and adjourned the matter to April 10, 1951. The applicant, accordingly, served notices, but one of the notices was affixed on the window of his premises instead of on the door as required by s. 15 (1) (*b*) of the Act. When the matter came before the justices on April 10, 1951, the objection was taken that the requirements of the Act with regard to notices had not been fulfilled. The justices held that the objection was valid, and refused the application, but adjourned the meeting again. The applicant moved for an order of *mandamus* calling on the justices to hear and determine the application for the licence. By s. 10 (4) of the Act of 1910: "A meeting held for the consideration of an application postponed under this provision may be held if necessary after the date on which an adjourned general annual licensing meeting may be held, and as far as the application is concerned the powers of the licensing justices may be exercised at the meeting in the same manner as at an adjourned general annual licensing meeting."

Held, that, in view of the plain language of the subsection, the justices had no power to grant a further adjournment, and that the application for *mandamus* must be refused.

Counsel: for the applicant, *J. Maude, K.C.*, and *Burge*; for the respondent justices, *Rowe, K.C.*, and *Sidney H. Lamb*.

Solicitors: *Barnes & Butler*, for *J. W. Miller & Son, Poole*; *Church, Adams, Tatham & Co.*, for *Dickinson, Manser & Co., Poole*.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

(Before Lord Goddard, C.J., Hilbery and Devlin, JJ.)
June 21, 1951

COX *v.* STINTON

Obscene Publications—Destruction—Complaint—Limitation of time—Right to order destruction of negatives of photographs—Obscene Publications Act, 1857 (20 *and* 21 *Vict., c.* 83), s. 1.

CASE STATED by Middlesex justices.

On September 23, 1949, a complaint under the Obscene Publications Act, 1857, was made at a court of summary jurisdiction at Uxbridge by the respondent, Thomas Owen Stinton, a chief inspector of the Metropolitan police, stating that he had reason to believe and did believe that divers obscene books, papers, writings, prints, pictures, drawings, and other obscene reproductions were kept at the house of the appellant, George Harry Cox, at Uxbridge for the purpose of distribution. The justices issued a warrant, under which, on September 24, the police entered and searched the premises and took away a large number of photographs. The appellant also showed the inspector a first floor room, which was full of boxes containing half-plate glass negatives. The inspector allowed those negatives to remain on the premises, the appellant agreeing that they should not be removed. On February 22, 1950, the police returned to the premises and took away some more photographs and negatives. On July 5, 1950, a complaint was laid before the justices, alleging that on September 24, 1949, and February 22, 1950, by virtue of the special warrant issued pursuant to the Act of 1857, the inspector duly entered the premises and then and there found and seized certain obscene photographs and negatives kept for the purpose of sale and gain. A summons was issued to the appellant calling on him to show cause why the obscene photographs and

negatives should not be destroyed. The complaint was heard on August 1 and September 29, 1950, when it was contended on behalf of the appellant that the proceedings were out of time in that they ought to have been begun within six months of the time when the matters of the complaint or information respectively arose, and also that the justices had no power to order the destruction of the negatives.

Held, (i) that the Act of 1857 contained its own complete code of procedure, that the complaint after seizure was unnecessary to obtain the issue of the summons, that s. 11 of the Summary Jurisdiction Act, 1848, did not apply, and that no limitation of time was imposed; (ii) that the negative of a photograph was "published" by distributing the positive, and that, accordingly, the negatives in question were matters "otherwise published for purposes of gain" within the meaning of s. 1 of the Act of 1857 and, accordingly, matters the destruction of which the justices had power to order. The appeal, therefore, must be dismissed.

Counsel: for the appellant, *Collard*; for the respondent, *Maxwell Turner*.

Solicitors: *Seifert, Sedley & Co., Director of Public Prosecutions.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

June 21, 1951

TAYLOR'S CENTRAL GARAGES (EXETER) LTD. *v.* ROPER

Road Traffic—Use of vehicle without road service licence—Charge of permitting against company—Hirer already convicted of using—Reliance by justices on evidence in previous case—Road Traffic Act, 1930 (20 *and* 21 *Geo.* 5, *c.* 43), *s.* 72 (10)—*Road Traffic Act*, 1934 (24 *and* 25 *Geo.* 5, *c.* 50), *s.* 25 (1) (*b*).

CASE STATED by Devon justices.

At a court of summary jurisdiction an information was preferred by the respondent, Ephraim John Roper, a police officer, charging the appellants, Taylor's Central Garages (Exeter) Ltd., with unlawfully permitting the use of a public service vehicle between Exeter and Cullompton without a road service licence, contrary to s. 72 (10) of the Road Traffic Act, 1930. The appellants contended that the occasion on which the vehicle in question was used was a "special occasion" within the meaning of s. 25 (1) (*b*) of the Road Traffic Act, 1934. Before the case was heard against the appellants, an information was heard by the same justices on which they convicted the person who actually used the vehicle. The justices then heard the information against the appellants, and convicted them. They stated that, in their opinion, they were entitled, to save repetition of the evidence, to take into consideration the following evidence which had been given in the previous case: (i) that the hirer had a standing order with the local newspaper circulating in the city of Exeter and a large area of Devon for an advertisement to appear on Thursday or Friday of each week advertising a coach to be run in connexion with his dances, and that because he left out the place of departure he considered he did not come within s. 25 (1) (*b*) of the Act of 1934; (ii) that the hirer admitted charging at least one passenger on that occasion, and that there were members of the public other than the members of his band and their wives who paid to travel on the coach; and (iii) that the advertisement was the hirer's usual method of announcing his dances. They found as a fact that neither of the managing directors of the appellants had seen the advertisement. The appellants appealed.

Held, that the justices were not entitled to rely on evidence which had been given, not in the case before them, but in another case, to which the appellants' advocate had had no opportunity of directing cross-examination, and that the conviction must be quashed.

Counsel: for the appellants, *Herrick Collins*; for the respondent, *Moylan*.

Solicitors: *Baileys, Shaw & Gillett*, for *Tozers*, Dawlish; *Crawley & De Reya*, for *J.C.M. Dyke, McLusky & Braddell*, Exeter.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

MISCELLANEOUS INFORMATION

LAW SOCIETY: QUESTIONS FOR THE FINAL EXAMINATION JUNE, 1951

[*By courtesy of the Law Society, we are able to print the following Papers set on Wednesday, June* 20, 1951 (*time* 2.30 *p.m. to* 5.40 *p.m.*).—*Ed., J.P. and L.G.R.*]

LOCAL GOVERNMENT LAW AND PRACTICE

(61) What action can be taken, after the expiration of the time for presenting an election petition, to question the right of a person to act as a member of a local authority? By whom can such action be taken and what time limit applies? (62) Quill, who is a solicitor in private practice in the urban district of Mudbury, is a member of the urban district council. The clerk to the urban district council has died recently, and Quill suggests to the council that, as a means of reducing expenditure, he (Quill) should be appointed part-time clerk to the council, without salary, receiving only reimbursement of personal and office expenses. Is this suggestion feasible? Give reasons for your answer. (63) Pursuant to Part III of the National Assistance Act, 1948, a county council provided temporary living accommodation for an evicted household consisting of: (*i*) John Smith; (*ii*) Mary Smith, the wife of John Smith; (*iii*) Tom Smith (aged four years), the legitimate child of John and Mary Smith; (*iv*) Sarah Jones aged eight years), the daughter of Mary Smith by a former husband (Henry Jones) now deceased; (*v*) Jane Robinson (aged ten years), the illegitimate daughter of Mary Smith (whose maiden name was Robinson) by a man (Williams) who admitted paternity and occasionally contributes to the cost of Jane's maintenance, but no affiliation order is in force. From what persons can the county council recover the cost of accommodating each member of the household? (64) In connexion with the promotion by a borough council of a Bill in Parliament it may be necessary to hold a "town's meeting." Who may attend such a meeting, and what business is required to be transacted thereat? Can a decision of a "town's meeting" be reversed, and, if so, by what means? (65) On what points must a local authority be satisfied before declaring an area to be a "clearance area" for the purposes of the Housing Acts? (66) (*a*) What statutory rights of attending meetings of local authorities, whose proceedings are regulated by the Local Government Act, 1933, are enjoyed by members of the public? (*b*) What statutory rights of attending meetings of such local authorities are enjoyed by representatives of the press? (67) Summarize the advantages and disadvantages resulting from the appointment to committees of a local authority of persons who are not members of the authority. (68) A county council proposes to purchase a site in a rural parish council for the erection of a house which is to be occupied by an employee of the council. At the time of purchase the site forms part of an arable field. What principles should be applied in asssessing (*a*) the purchase price of the site, and (*b*) any development charge payable under the Town and Country Planning Act, 1947? (69) The council of an urban district desires to advertise the amenities of the district as a holiday resort, and proposes to provide concerts and similar entertainments as an attraction for visitors. What statutory powers are available to the council for these purposes? You can assume that no relevant powers are conferred by Local Acts. (70) Compare the functions as to the provisions of sewers of (*a*) a county council and the related county district councils (outside London) and (*b*) the London County Council and the metropolitan borough councils. (71) A parish council desires to raise a loan for a statutory purpose. What consents or sanctions must the parish council obtain before they can borrow the money, and upon what security will the money be borrowed? (72) A land drainage board owns a bridge which carries a county road over a main drain which is vested in the board. The bridge is in a bad state of repair and the board is desirous of arranging that responsibility for the reconstruction and future upkeep of the bridge should be undertaken by the highway authority. Advise the board as to the statutory powers available to them in negotiating with the highway authority.

THE LAW AND PRACTICE OF MAGISTRATES' COURTS, INCLUDING INDICTABLE AND SUMMARY OFFENCES, MATRIMONIAL JURISDICTION, BASTARDY, JUVENILE COURTS, TREATMENT OF OFFENDERS, CIVIL JURISDICTION, COLLECTING OFFICERS' DUTIES, THE ISSUE OF PROCESS, EVIDENCE IN CRIMINAL CASES AND LICENSING

(61) A newly appointed magistrate says that he has been told that if a defendant is liable on conviction to more than three months' imprisonment the case must not be dealt with summarily without the consent of the defendant, and he requests you to advise him. How would you advise the magistrate? (62) Jones is committed for trial on a charge of obtaining money by false pretences. Is he entitled to (*a*) a copy of the depositions, (*b*) a copy of the information? (63) You are clerk to the justices for the petty sessional division of A. The justices of that division (being the supervising court) are satisfied that P, a probationer, has gone to live in the petty sessional division of Z, and make an order amending the probation order, by substituting for the petty sessional division of A, named in the probation order, the petty sessional division of Z. What action would you take? (64) A husband has been ordered to pay his wife the sum of £1 per week for the maintenance of their child under the Guardianship of Infants Act, 1886, as amended. He is in arrear under this order to the extent of £10. A distress warrant has been issued and has proved abortive. How can payment be enforced? (65) A written information is laid

charging A, B and C with assaulting D and three summonses are issued against A, B and C respectively, in the terms of the information. At the hearing before the justices A's solicitor objects that the information is bad as it joins three offenders. How would you advise the justices? (66) F is charged before examining justices with a felony but the justices refuse to commit for trial and discharge the accused under the Indictable Offences Act, 1848. F's solicitor applies for an order that the prosecutor shall pay £10 10s. towards the costs of the defence. How would you advise the justices? (67) A boy, aged fourteen and a half, has been found guilty by a juvenile court of several charges of larceny. The boy is an orphan, but his aunt and uncle who have not seen him for some years have attended the hearing and are clearly willing to take an interest in him. Advise the justices as to the courses open to them in dealing with the boy. (68) Tom appears in court in answer to a summons for a bastardy order against him. He says he does not admit the allegation and desires to be legally represented, but has insufficient means to employ a solicitor. He applies to the justices for legal aid. How would you advise the justices? (69) T is charged with larceny of a watch, elects to be dealt with summarily and pleads not guilty. He is convicted and an order for conditional discharge is made. T wishes to appeal against the conviction. Advise him. (70) L, the licensee of a public house, is charged with counselling and procuring four of his customers in consuming on the licensed premises intoxicating liquor otherwise than during permitted hours, contrary to s. 4 of the Licensing Act, 1921. The evidence before the justices is that L had duly called "Time" when permitted hours came to an end, and was unaware that the four customers in one of the rooms were still consuming beer which had been served to them by L's barmaid before "Time" was called. How would you advise the justices as to the law? (71) Section 3 of the Sale of Food (Weights and Measures) Act, 1926, provides as follows: A person shall not on or in connexion with the sale of any article of food, or in exposing or offering any article of food for sale, make any misrepresentation either by word of mouth or otherwise, or commit any other act calculated to mislead the purchaser or prospective purchaser, as to the weight or measure of the article, or, if any articles are being sold or offered for sale by number, as to the number of articles sold or offered for sale. Draw an information for an alleged offence against this section using imaginary particulars. (72) On a certain day there are due to be heard by the justices of the petty sessional division of P the following cases: two cases of alleged excessive speed, one alleged assault, one alleged driving a motor vehicle in a manner dangerous to the public, one summons by Mrs. B against her husband for a maintenance order on the ground of desertion, one bastardy summons, one summons by Mrs. A to vary the amount payable by her husband under a married woman's order. As clerk to the justices you have been entrusted by the justices with the duty of preparing the list of cases for the day. What considerations should you bear in mind in preparing the list?

SOCIAL WORKERS IN MENTAL HEALTH SERVICES

Recommendations to meet the shortage of trained social workers in every branch of the mental health services are made by the Committee on Social Workers in the Mental Health Service in their report to the Minister of Health published as a White Paper recently.

The committee, under the chairmanship of Professor G. M. Mackintosh, was appointed in July, 1948, "to consider and make recommendations upon questions arising in regard to the supply and demand, training and qualifications" of social workers in this field. They have already presented an interim report dealing with the position of psychiatric social workers, who, in their final report they state are needed in much greater numbers. "Our examination of the situation suggests more than 1,500 compared with the present 331 in active practice," they add: "We also need a still larger number of trained and experienced mental welfare workers."

On the status of psychiatric social workers, the committee comment: "Their professional status stands high and the evidence that we have received is overwhelming in its regard to the psychiatric social worker as a valuable worker in the mental health services."

Among the main recommendations of the report are: Social Science: New entrants to the profession of social work should be offered a general training linking academic practical work at university level; psychology should be taught in its application to the living situations which the candidate is likely to meet in her daily work. Mental Health: Existing standards of training should be maintained and efforts made to establish additional university health courses. Training Courses: As there are no standardized courses of training for workers (other than psychiatric social workers), the committee recommend that appropriate training courses should be organized as soon as possible. These should include in-service training for those already holding appointments under a local authority. They suggest courses of six to eight weeks theoretical background, followed by in-service training which would include experience of case work under the supervision of a psychiatric social worker or experienced mental welfare worker. There should also be instruction in medical, social and legal aspects of mental health work as well as visits of observation to hospitals, training centres and other institutions.

New entrants to the local health authority service should, as a preliminary to training, spend at least six months under the supervision of an experienced worker so as to get a general background. Then, if found personally suitable, they should have in-service training for two years.

As an urgent measure for increasing recruitment a trainee scheme is proposed under which new recruits would be supervised by experienced psychiatric social workers. The committee suggests that this scheme should be organized through the Regional Hospital Boards who would be responsible for the payment of maintenance grants to those selected for training. Special Committees would also be set up in each region.

The term "psychiatric social worker" should be restricted to persons holding the university mental health certificate. They should be regarded as specialists in their own sphere and a register of psychiatric social workers should be kept. Recruitment of men into the mental health services should be encouraged—provided that they receive adequate training. There is need for the greatest possible economy in the use of psychiatric social workers. There are grounds for believing that some of these workers in mental hospitals and child guidance centres are used for routine history taking more than for social work, and for clerical and organizing duties which persons with secretarial training could perform. More use should be made of part-time workers (including married women) especially in teaching and consultant appointments.

The report surveys the field of the mental health social services. After tracing the growth of organized social work for the benefit of adults suffering from mental disorder—which has its roots in the nineteenth century—it goes on to describe the present position and to analyse mental health social work. After dealing with the supply and demand of the various groups of workers in this field, the committee discuss questions of training.

Dealing with the need for more personnel, the committee point out that there is an extremely erratic distribution of those already employed. In 1949 there were forty-three psychiatric social workers in the north of England as against 231 in the south, thirty-nine in the midlands and east Anglia and five in Wales. "This is a serious problem as yet unsolved," comment the committee.

They consider that there is danger of having extensive specialization in social work without any solid foundation of general practice. The university social science courses offer introductory studies rather than practical training although practical work is becoming increasingly recognized as an essential feature. It was obvious in view of the competition of other professions—especially nursing and teaching—that the mental health services, which necessarily require from their staff both maturity of mind and skill that comes from long training, must offer the prospects of an attractive career.

The report points out that the mental health services in England and Wales are responsible for the social care of nearly 150,000 persons who are under treatment for mental illness in hospitals of one kind or another. In addition, there are large numbers of persons receiving treatment at psychiatric clinics and child guidance centres, some 51,000 mental defectives under care in institutions and another 76,000 on licence and under guardianship and statutory and voluntary supervision in the community.

Discussing the shortage of *trained* social workers, the committee says that the cause of this situation is not merely the normal pressure for expansion of the social services . . . The National Health Service Act of 1946 has had a decisive effect in bringing into prominence the need for extending non-medical services of many kinds in the broad realm of public health. Ideally, the effect of increasing this auxiliary service is to rationalize the use of the more highly trained and expensive medical personnel and in practice this can be to a considerable extent achieved.

Discussing the role of the employing authorities, the committee considered it is clear that early developments must take place if the service is to maintain its efficiency and that stronger links must be forged between the mental hospitals, institutions, the local health and education authorities who control the community services, and the patients against the background of home and family.

FAMILY ALLOWANCES: RECIPROCAL AGREEMENT WITH GUERNSEY

A reciprocal agreement, linking the family allowances schemes of Great Britain and Guernsey, which will operate from July 2, 1951, has been made. From that date, families who go to Guernsey from Great Britain, or who come to Great Britain from Guernsey, will continue to receive their family allowances without interruption.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 40.

DO NOT STARE

A fifty-nine year old time-keeper appeared at South Western Magistrate's Court on May 10, last to answer three charges each alleging that he had interfered with the comfort of passengers in the underground railway contrary to the provisions of byelaw 16 of the byelaws and regulations of the London Passenger Transport Board now vested in the London Transport Executive.

For the prosecution, it was stated that the defendant travelled all over the Northern Line system waiting for a train in which he could find a woman sitting alone. When successful it was his custom to sit opposite and stare into the woman's face.

A complaint was received from a woman passenger and four police officers each spent a total of twenty hours trying to put a stop to this behaviour. Defendant made a statement when interviewed saying, " I have a weakness for the opposite sex. I like standing near them."

For the defendant, who pleaded guilty, it was stated that he had now placed himself in the hands of a doctor.

Defendant was fined a total of £2 and ordered to pay, in addition, £13 costs.

COMMENT

According to the report sent to the writer the solicitor prosecuting for the London Transport Executive described the case as " astounding " and with this description the writer respectfully concurs.

It is a truism that it takes all types to make the world, but the dogged persistence that the defendant must have displayed in his efforts to find an underground train in the London area sufficiently empty to enable him to indulge his tastes is indeed noteworthy and it is to be hoped that his timekeeping duties did not suffer !

Another aspect of the case meriting consideration and slightly less trivial is as to whether the wide scope of the regulations is sufficiently known. Everyone is, or used to be, taught that it is rude to stare, but how many of us can truly say that we have never been in jeopardy of a conviction under this regulation ? It all depends, of course, on the discretion shown by the observer but the writer ventures to think that travelling on the Underground would be even more wearisome than it is today if all passengers, female as well as male, kept their eyes discreetly averted from their fellow passengers during their travels.

It is understood that the heavy costs to be paid by the defendant were intended to compensate, in part, the London Transport Executive for the time spent by their officers in watching the defendant.

The byelaw infringed by the defendant, although consisting of only a few lines, creates some twenty offences and provides, *inter alia*, that " no person shall . . . while in or upon any lift or vehicle or elsewhere upon the railway . . . molest or wilfully interfere with the comfort or convenience of any passenger or person on the railway." Byelaw 2 provides that the maximum penalty for a first offence under byelaw 16 shall be 40*s.*; subsequent convictions carry a maximum penalty of £5. There is also provision for removal of an offender from the railway by an authorized person in the event of a refusal to desist.

(The writer is indebted to Mr. P. J. Hornby, chief clerk of the South Western Magistrates' Court, for information in regard to this case, and to the press and publications officer London Transport Executive for the loan of a copy of the byelaws.)

No. 41.

REFUSAL TO GRANT A DRIVING LICENCE : A SUCCESSFUL APPEAL

An appeal under s. 5 (5) of the Road Traffic Act, 1930, was recently made to the Seaham, County Durham, Magistrates' Court. This was occasioned by the refusal of the licensing authority to grant a driving licence.

The facts were that the appellant completed the Form D.L.1, and in answer to the question number 12 which reads, " Do you suffer from epilepsy, or from sudden attacks of disabling giddiness or fainting ? Read Note (F) and answer YES or NO," put " No ; see attached Doctor's report."

The driving licence was refused, the taxation officer saying that the appellant was suffering from epilepsy.

The medical history of the appellant was that he did suffer from what was believed to be epileptic fits following a blow on the head at work, but his last fit had been in 1944.

On the hearing of the appeal, Durham County Council, who were legally represented, submitted that there was no jurisdiction in the Seaham Court. In support they quoted *R.* v. *Cumberland JJ. Ex parte Hepworth* (1931) 95 J.P. 206.

Mr. Stanley Lambert, solicitor, of Sunderland, to whom the writer is indebted for this report, and who appeared for the appellant, argued that the appeal could be distinguished from *R.* v. *Cumberland JJ., supra*, because the appellant maintained that he did not suffer from epilepsy, and had said " No " in answer to the question number 12.

The magistrates held that they had jurisdiction.

Evidence was given for the appellant by a neurosurgeon who produced charts showing brain waves taken on an electro-enuphalogram.

This was the doctor who had already given a report and which had been attached to the Form D.L.1.

This witness said that the brain waves were normal and the appellant did not suffer from epilepsy and was perfectly fit to drive a motor vehicle.

The County Council produced no evidence, but cross-examined the witness.

After an adjournment of fourteen days, the magistrates announced that they would like further evidence.

The solicitor for the appellant said that he could not bring any further evidence and that he rested his case on the evidence of the neurosurgeon.

The County Council said they would bring no evidence.

After another adjournment the magistrates upheld the appeal and said the driving licence should be granted.

COMMENT

It will be recalled that r. 58 of the Summary Jurisdiction Rules, 1915, provides that where any person is authorized under any Act to appeal to any police or stipendiary magistrate or any justice of the peace against a decision or order of any local or other authority or other person or body, the procedure shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to all such proceedings. In the case reported above, notice was served on the local taxation officer.

Section 5 (5) of the Act of 1930 provides that upon the hearing of an appeal against the refusal to grant a licence, the court may make such order as it thinks fit, and any order made shall be binding on the licensing authority.

It is difficult to appreciate how the County Council sought to rely upon *R.* v. *Cumberland JJ., supra*, for their contention that the justices had no jurisdiction. The essential difference between the two cases, to which Mr. Lambert drew attention, is that in the case reported above the appellant *denied* that he suffered from epilepsy whereas in the Cumberland case the driver *admitted* defective vision.

It will be recalled that by subs. 2 of s. 5 it is laid down that where it appears from the declaration form that the applicant is suffering from certain specified disabilities (including epilipsy and poor eyesight) the licensing authority *shall* refuse to grant the licence.

In the Cumberland case, Mr. Hepworth, whose truthfulness and integrity earned the commendations of the late Lord Hanworth, stated that he could not read the numbers on a car twenty-five yards away but he went on to give details which showed that he was a competent and careful driver of considerable experience. A licence was refused, and Mr. Hepworth appealed to the justices. The justices' decision that they were without jurisdiction was confirmed by the Court of Appeal without hesitation, although it was clearly considered that Mr. Hepworth was entitled to sympathy.

It is not uninteresting to note that Lord Hanworth's strong recommendation, made at the end of his judgment, that the wording on the application form should be varied, has failed to bear any fruit. The judgment was delivered twenty years ago, and the form of question as to eyesight remains today as it was when Mr. Hepworth completed it so veraciously.

It will be interesting to see if Lord Goddard's recent expressions of opinion on the subject of identity cards will also be ignored ; the writer believes not.

PENALTIES

Wellington—June, 1951—Using a car with inefficient brakes—fined £5.

Wellington—June, 1951—Permitting the use of a car with inefficient brakes—fined £5. The car was found wedged between another car and a broken shop window and on examination the handbrake was found to be useless and the footbrake had to be depressed very hard to take effect.

Wellington—June, 1951—Indecent exposure with intent to insult a female—fined £5. To pay 5*s.* costs. Defendant, a seventeen year old labourer, was given one month in which to pay with the alternative of one month's imprisonment in default.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

RECORDERS' AND MAGISTRATES' COURTS

In the House of Lords, Viscount Templewood asked the Lord Chancellor whether he had now completed his inquiries into the case of small boroughs that desired to retain their recorders' and magistrates' courts, and whether he would give a list of the boroughs in which he had decided to allow or disallow retention.

The Lord Chancellor replied that he had completed his inquiries into the cases of those boroughs which had applied to him for an order saving their Commissions of the Peace and Quarter Sessions under the provisions of subs. (5) of s. 10 of the Justices of the Peace Act, 1949. In making those inquiries, he had been assisted by a small committee which he appointed under the chairmanship of the then Attorney-General, Sir Hartley Shawcross.

He had made an order in favour of the following boroughs saving to them the grant of their Commissions and Quarter Sessions :

Abingdon	Bury St. Edmunds
Andover	Devizes
Banbury	Lichfield
Barnstaple	Newbury

The following were the boroughs which were eligible to apply to him for an order under the Act, and which did in fact apply for such an order, but in respect of which he had decided that it was not desirable for the grant of the Commissions and Quarter Session to be saved :

Berwick-upon-Tweed	Saffron Walden
Bideford	Sandwich
Bridgnorth	South Molton
Carmarthen	Stamford
Chichester	Sudbury
Faversham	Tenterden
Hythe	Tewkesbury
Ludlow	Thetford
Maldon	Tiverton
Oswestry	Warwick
Richmond (Yorks).	Wenlock
Rye	

The Lord Chancellor added that he had caused communications to be sent to the town clerks of all those boroughs informing them of his decision.

INFANTS BILL

The House of Lords gave a unanimous Second Reading to the Guardianship and Maintenance of Infants Bill.

Moving the Second Reading, the Lord Chancellor said the Bill set out to do two things ; first, to alter the law relating to venue in proceedings under the Guardianship of Infants Acts, and, second, to cure an anomaly that had arisen in the amount of maintenance that might be ordered by a court of summary jurisdiction.

He recalled that last year, in the case of *R.* v. *Sandbach Justices*, the High Court held that applications under the Guardianship of Infants Acts to courts of summary jurisdiction could be made only to the court for the place in which the respondent resided. Until the decision of the High Court in that case, many courts of summary jurisdiction had been in the practice of following the general rule in the Summary Jurisdiction (Separation and Maintenance) Acts, and of entertaining applications in the court for the district where the applicant resided. Under those Acts, the venue lay where the cause of complaint wholly or partly arose, which generally included the court for the place where the applicant resided. In 1949, however, the Married Women (Maintenance) Act of that year extended the jurisdiction so as to include expressly the court for the place in which the married woman or her husband resided. The Government thought it well that the applicant's court should have jurisdiction, and they thought it right to extend the jurisdiction for that purpose. The Bill therefore proposed to give the courts of summary jurisdiction the power which, before the recent High Court decision, it was generally thought they possessed, and that applied whether the applicant was the father or the mother. In addition, they proposed to give jurisdiction to the court for the place in which the infant was. They proposed to apply both those changes to the county courts for conformity.

The Bill also proposed that orders which turned out to have been made without jurisdiction should be validated.

Regarding maintenance, it was proposed that the maximum in orders under the Guardianship of Infants Acts and certain analogous orders should be raised from 20*s.* to 30*s.*, as in the Married Women (Maintenance) Act, 1949.

WHAT IS A BARRISTER ?

(Being a reply to J.P.C. at p. 340, ante)

No lectures I attended ; for about an hour each week
I swotted up the questions asked last year ;
I couldn't read Justinian in Latin or in Greek,
And Roman Law is something strange and queer.

I qualified in war-time, so I didn't have to pay
To dine with student-members of my Inn ;
To judges, masters, ushers, I'm a stranger to this day,
My Hall is but a " Temple," and I've never been within.

This week I'm being called ; my cup is full to brim,
I'll be as good a barrister as any college boy ;
Who, for a year, poor fool, must read in chambers grim,
While I increase my salary in Government employ.

And now I want all privileges pertaining to the Bar :
To call a Judge just " Smith "; while " Esquire " now I claim ;
To wear a wig and gown in Court (if I should get so far) ;
In other spheres to flash the newly-won appendage to my name.

There must be *two* varieties of people whom they " call,"
The college student with a Laws degree
Who reads in chambers, serves a pupilage, keeps Hall ;
And " wide boys " going in for " trimmings," same as me.

But if they're both called barristers, then no distinction show,
For to the world they're equal ; the fact is never bawled
That there's a spot of difference to the people in the know
Between the one who practises, and one who's merely " Called."

" Spiv Legis."

BOOKS AND PUBLICATIONS RECEIVED

DAILY EXPRESS LEGAL GUIDE, No. 1.
" A simple explanation of the Legal Aid Scheme "
The Daily Express. *Price 2s.*

ANNUAL REPORT OF THE BOARD OF CONTROL
H.M.S.O. *Price 6d.*

DERBYSHIRE
LOCAL GOVERNMENT FINANCE IN THE ADMINISTRATIVE COUNTY
County Treasurer, Derby. *No price stated.*

WARWICKSHIRE
STATISTICS OF THE COUNTY COUNCIL AND BOROUGH AND DISTRICT COUNCILS IN THE COUNTY
County Treasurer, Warwick. *No price stated.*

INLAND WATER SURVEY COMMITTEE—FIFTH ANNUAL REPORT, 1950
H.M.S.O. *Price 9d.*

U.D.C. of URMSTON
REVIEW OF WORK IN 1950-51
Clerk of Council *No price stated.*

CHILDREN SERVICES STATISTICS—1949-50
WELFARE SERIVCES STATISTICS — 1949-50
I.M.T.A., and
Society of County Treasurers *No price stated.*

MEMORANDUM ON THE TOWN AND COUNTRY PLANNING ACT, 1947
Chartered Auctioneers'
and Estate Agents Institute *No price stated.*

PERSONALIA

APPOINTMENTS

Mr. Maurice Haworth, assistant solicitor to the county borough of Barnsley, has been appointed deputy clerk of the Godstone Rural District Council. Mr. Haworth is thirty-five years of age and has held previous appointments with the Bacup Corporation and the Chadderton U.D.C.

Mr. Alec Henry Horler has been appointed an assistant official receiver for the bankruptcy district of the county courts of Aylesbury, Brentford, Chelmsford, Edmonton, Hertford, St. Albans and Southend.

Mr. Harold Clifford Gill has been appointed an assistant official receiver for the bankruptcy district of the county courts of Manchester, Salford, Ashton-under-Lyne and Stalybridge, Bolton, Oldham, Rochdale and Stockport ; for the bankruptcy district of the county courts of Preston, Blackpool, Blackburn and Burnley ; and also for the bankruptcy district of the county courts of Hanley and Stoke-on-Trent, Crewe and Nantwich, Macclesfield, Stafford, Shrewsbury and Newtown.

Mr. Wilfred Whitehead has been appointed assistant official receiver in the Bankruptcy (High Court) Department.

Mr. Walter William Jordan has been appointed an assistant official receiver for the bankruptcy district of the county courts of Birmingham, Walsall, West Bromwich, Wolverhampton, Worcester, Coventry, Warwick, Hereford and Leominster ; also for the bankruptcy district of the county courts at Dudley, Kidderminster and Stourbridge.

Mr. Cyril Charles Ferris Hannaford has been appointed an assistant official reciever for the bankruptcy district of the county courts of Manchester, Salford, Ashton-under-Lyne and Stalybridge, Bolton, Oldham, Rochdale and Stockport ; for the bankruptcy district of the county courts of Preston, Blackpool, Blackburn and Burnley ; and also for the bankruptcy district of the county courts of Hanley and Stoke-on-Trent, Crewe and Nantwich, Macclesfield, Stafford, Shrewsbury and Newtown.

OBITUARY

Mr. John Ingram Dawson, clerk to the Barnard Castle U.D.C. for fifty years, died recently at the age of eighty-nine. Mr. Dawson was twice selected by the Urban Council's Association to give evidence before the Parliamentary Committee sitting to consider new Public Health Bills. He resigned his position of clerk to the U.D.C. in 1939.

Major Deleval Graham L'Estrange Astley of Wroxham, formerly an alderman on Norfolk County Council and a magistrate on the Blofield and Walsham bench, died recently, aged eighty-two. Major Astley first became a magistrate in 1904 and, until he was transferred in 1949 to the supplemental list of justices, was a member of the Blofield and Walsham bench for forty-five years, for twenty of which he was chairman. He was a member of the Licensing Committee of Norfolk quarter sessions for sixteen years, and was also a member of the Appeal Committee of quarter sessions. He was vice-chairman of the Norfolk County Council in 1941, and in 1947 he was appointed chairman of the Norfolk Fishery Board.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, July 3

MINISTRY OF MATERIALS BILL, read 2a.

Thursday, July 5

GUARDIANSHIP AND MAINTENANCE OF INFANTS BILL, read 2a.
RURAL WATER SUPPLIES AND SEWERAGE BILL, read 2a.

HOUSE OF COMMONS

Tuesday, July 3

FINANCE BILL, read 3a.

Wednesday, July 4

DANGEROUS DRUGS BILL (LORDS), read 2a.
NATIONAL ASSISTANCE (AMENDMENT) BILL, read 2a.

Friday, July 6

FORESTRY BILL (LORDS), read 2a.

NOTICE

The next court of quarter sessions for the city of Coventry will be held at the County Hall, Coventry, on Tuesday, July 17, 1951, at 11 *a.m.*

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children and Young Persons—*Age at which parent may eject son from home.*

I would be glad of your opinion on the age at which it is legally possible for parents to eject a son. It may be sixteen years since the Children Act, 1948, s. 24, has it that a contribution order cannot be made on parents after that age. Also the poor law may consider sixteen years as the age of self dependence. I would, however, value your opinion on the matter as I cannot find any definite law on the point directly. STANT.

Answer.

Since, under the National Assistance Act, 1948, ss. 42 and 64, a man is liable to maintain his child under the age of sixteen years, we think it follows that when the child reaches that age his parent, being no longer liable to maintain him, need not provide him with a home, and can therefore eject him.

The poor law was abolished by the National Assistance Act.

2.—Contract—*Defence Regulations—Civil building licences—Excess work—Amount recoverable.*

Clients of ours, who are builders, recently undertook certain building work. A building licence was obtained covering work to the extent of £275, but in practice the work undertaken has amounted to £900. Our clients desire to proceed for this latter figure, but we are concerned about the position in respect of the building licence, and have warned them that if proceedings are commenced they may well find themselves prosecuted at a later date. It is quite clear that if the building regulations are pleaded in the defence our clients cannot recover more than the £275 for which the licence was granted, but we are not sure whether, in fact, they could obtain judgment for this £275. We are unable to find any authority on this point and feel sure there is one. Can you assist us? ACK.

Answer.

In *Jackson, Stansfield & Sons* v. *Butterworth* [1948] 2 All E.R. 558; 112 J.P. 377 it was only as to the excess above the licensed figure that there was a question. It seems plain from the report, and from the remarks about that case by Denning, L.J., and Jenkins, J., in *Dennis & Co.* v. *Munn* [1949] 1 All E.R. 616, that the money lawfully expendable is recoverable. We concur in your advice to your clients against putting the excess in issue: to do so would be to invite prosecution. And indeed it is not a matter, as suggested in your query, of the pleading of the regulations in defence. As officers of the court you cannot issue a writ for the £900.

3.—Education Act, 1944, s. 40—*School attendance.*

Is it permissible to fine a parent under the above section for a contravention of s. 39 in addition to making a direction order under s. 40 (3)? It has been argued against the imposition of a fine that the section is not explicit on the point, and therefore should be interpreted in favour of the defendant. Reference to any authority would be of assistance. ATIO.

Answer.

Subsection (3) says expressly that the direction it empowers the court to give may be given "whether or not the parent is convicted." Subsection (1) says that a person guilty of an offence shall be liable on summary conviction to a fine. The section thus contains within itself, in our opinion, all the authority needed for the court to do either thing alone, or to do both things, and we should have thought the point which you say has been argued was almost unarguable.

4.—Licensing—*Provisional ordinary removal to premises designed as "temporary" premises pending removal to rebuilt premises.*

We refer to the views you expressed in P.P. 8 at p. 301, *ante*, in relation to the problem which arose from the proposed complete rebuilding of a country hotel.

On our clients' instructions we have served notice for a provisional ordinary removal to premises which will be of a purely temporary character, and which will be erected on some part of the site occupied by the present hotel, or its curtilage.

We enclose a copy of the notice in question, and shall be glad to know if you have any observations to offer thereon as the clerk to the justices seems to be a little disturbed by it.

We should also be glad to know if, in your opinion, any difficulties are likely to arise so far as monopoly value is concerned when it is desired to remove the licence back again to the rebuilt hotel. NEEK.

Answer.

The notice submitted for our inspection and comment seems to be in order as an application for a provisional ordinary removal of the licence to proposed "temporary" premises. The licensing justices may have a reluctance to grant a provisional ordinary removal to premises designed as "temporary"; for the reason that they would then have little control over the period for which the temporary premises would remain standing as licensed premises. This reluctance may be overcome if a written undertaking is given that application will be made in a specified number of years for a provisional order of removal from the "temporary" premises to larger premises, and that renewal of the licence in respect of the temporary premises will not be sought after a specified date. Such an undertaking should include a provision for extending its duration on application to the licensing justices.

No monopoly value will be payable on any future removal from the temporary premises to the rebuilt hotel. Monopoly value is payable only in respect of a new grant of an on-licence.

5.—Magistrates—*Practice and procedure—Company—Enforcement of fine when distress warrant returned "no goods."*

Distress warrants for penalties and costs totalling £25 against a limited liability company have been returned as abortive, the goods at the registered office being claimed as the personal effects of the secretary of the company.

I should be obliged if you could advise me what other steps (if any) can be taken against the company to enforce payment. I might add that the imposition of further fines against the same company is likely in the near future, the company being constant offenders under s. 82 of the Public Health (London) Act, 1936. J.S.A. ELMO.

Answer.

A fine is a debt provable in bankruptcy (*Re Pascoe, Trustee in Bankruptcy* v. *H. M. Treasury* [1944] 1 All E.R. 593).

The only remedy, if the appropriate court would entertain the application, is for a petition for the winding-up of the company to be presented. It is not easy to say whether the "creditor" for this purpose should be the clerk on whom falls the duty of seeking to enforce payment of the fine and costs, or the authority to whom those sums, if paid, would be allocated. We can find no authority on the point.

6.—Music, etc., and Cinematograph Licences — *Adequacy of sanitary conveniences, etc.—Licensing authority's power to attach conditions to licence.*

My justices are the licensing authority in respect of this borough under the Cinematograph Act, 1909, and the Public Health Acts Amendment Act, 1890. In both licences they have inserted a condition that adequate toilet accommodation shall be provided for both sexes, and that it shall be properly equipped, maintained and ventilated, etc.

The premises to which the licences apply vary as widely as theatres, cinemas, dance halls, church schoolrooms, cafés, open-air swimming pools, parks, playing fields, hotels large and small, etc.

Your opinion is sought as to whether the justices have a right to stipulate that access to and use of such toilet (and lavatory) accommodation shall be without charge, and that it must therefore be kept unlocked during the hours when the premises are in use under the licence(s). Would they be entitled to make such a requirement in respect of some and not others?

The same principle would no doubt apply in the case of premises licensed under the Licensing (Consolidation) Act, 1910 (on-licences only).

Can you direct my attention to any authorities in these matters? Would you go so far as to say that if the local authority have not taken action under s. 89 of the Public Health Act, 1936, the justices were exceeding their authority by requiring such accommodation to be provided under every such licence? NDDN.

Answer.

It is customary for questions of the adequacy of sanitary conveniences to be left to the local authority in the exercise of their

powers under s. 89 of the Public Health Act, 1936. We think that the local authority, if the reasonableness of the situation demanded it, would not act beyond their powers if they required that some accommodation should be made available for people who desire to make use of it and have no small change—this is quite usual in good managerial practice.

Licensing authorities may impose conditions touching the maintenance, etc., of the lavatories in a clean condition, but we hesitate to advise that it is within their powers to prohibit a charge being made for their use. Conditions may attach to one licence without attaching to others.

If the local authority do not take action under s. 89 of the Public Health Act, 1936, we suggest that the justices, instead of imposing conditions, should notify the holder of any licence concerning whose premises they have cause to complain that unless they are satisfied that proper steps have been taken to remedy any specified defect, the matter will fall to be considered on the general question of the suitability of the premises when the licence comes before them for renewal.

We cannot cite any authorities in support of the opinion which we hold. As regards the cinematograph licences, the limited scope of the power must not be forgotten

—**Pleasure Ground**—*Gun fired into ground from outside—Byelaws—Assault.*

One of the byelaws made for the good rule and government of this county reads as follows :

" *Catapults, etc.*—No person shall in any street or public place use any catapult or project, sling, or throw any stone or missile to the injury, danger or annoyance of any person or to the damage of property."

Recently two lads with an air gun standing in the gardens of their parents' houses adjacent to the park fired the air gun at some boys who were in the park. One or two of the boys were hit on the face by the pellets but without breaking the skin or doing any serious injury. In the interpretation clause public place includes a park. Will you be good enough to give me your opinion whether an offence has been committed ? What I have suggested is that the two lads could be charged with projecting missiles to the danger of persons. The difficulty is of course that the defendants were not standing in the park. The missiles however entered the park and I wondered if the analogy of the cases under " Game Trespass " is appropriate : *see* 82nd edition of *Stone*, p. 979, under " What is a trespass."

AWOY.

Answer.

The passage in *Stone* analyzes fully the position in relation to shooting and retrieving game. There might no doubt be a civil action for trespass here, but we do not consider the criminal cases have any analogy. The byelaw before us is so framed (we suspect deliberately) that the phrase " in a street or public place " must be either an adjective qualifying the person first mentioned, or an adverb qualifying the verbs. It cannot grammatically qualify the person secondly mentioned. This in our opinion disposes of the case, if the summons is issued for breach of the byelaw, though we ought to add that we also have some doubt whether the verb " project," immediately associated with the word " catapult," and the verbs " sling, or throw " covers propelling a missile from a gun. We assume that this air gun is outside the Firearms Act, 1937 ; if there is evidence showing (as you say) that one of the lads fired the gun at other boys, we should have thought a charge of assault was appropriate, rather than a byelaw charge.

8. Real Property—*Water—Disused mill dam—Danger of bursting.*

There is in this district a mill dam which is thought to be dangerous. The mill has ceased to function for many years and the dam is used by a fishing club. The stone walls retaining the water are in a poor state of repair and it is thought that water might escape suddenly and do damage to property at a lower level. The quantity of water contained by the dam is too small for the application of the Reservoirs (Safety Provisions) Act, 1930. Is there any other statutory provision authorizing the rural district council to intervene ? ASH.

Answer.

We think not. We dealt at p. 16, *ante*, with a query in some respects similar, except that there the water was still being used by the miller. In the present case it is not clear who controls it. If the council's own property is threatened, they may have a basis for seeking an injunction on *quia timet* grounds, to secure lowering of the water level, but this will not be under statutory powers. Otherwise, we cannot see that they have any *locus standi*. Compare, generally, 114 J.P.N. 520, referring to *Neath R.D.C.* v. *Williams* [1950] 2 All E.R. 625 ; 114 J.P. 464. The only other suggestion we can make is that the county council may in some cases be able to move, under s. 35 (2) of the Land Drainage Act, 1930, as applied by s. 50 (2). This, upon the basis that (*i*) a dam is, as its name implies, a part of a watercourse (*see* s. 81 of that Act) ; (*ii*) the flow of water is impeded so that agricultural land is endangered ; and (*iii*) there is an act or default by somebody, causing the impediment. It is not necessary to prove so much if the county council find themselves able to move under ss. 16 and 19 of the Agriculture (Miscellaneous War Provisions) Act, 1940, as to which *see* also s. 10 of the Agriculture (Miscellaneous War Provisions) Act, 1943.

9. Road Traffic Acts—*Driving tests—Test passed before December 1, 1948—Licence issued for groups A and D only, excluding groups B and C.*

In my locality, if a person has passed a test on a motor car since December, 1948, he is issued with a driving licence for groups A, B and C, but if he passed prior to that date, he is issued with a driving licence for groups A and D. By virtue of sch. 2 to the Motor Vehicles (Driving Licences) Regulations, 1950, the holder of a group A licence is entitled to drive vehicles in groups B and C also, and it is suggested that this equally applies to a driver who passed his test on a motor car before December, 1948, *i.e.*, that he, too, is entitled to drive vehicles in groups B and C as well as those in groups A and D. Do you agree ? JELE.

Answer.

The explanation is to be found, we think, in the final proviso in reg. 6 of the 1950 Regulations, by which an applicant who passed a test prior to December 1, 1948, shall be deemed competent to drive a vehicle of any class or description which he was deemed to be competent to drive before that date. In the 1947 Regulations vehicles now included in groups B and C were excluded from group I and there was no provision, as there now is, for adding those groups on the licence. Vehicles now included in group D were not excluded from group I.

It is clear that the proviso above referred to is intended to ensure that the applicants therein mentioned shall not be deprived under the new regulations of the right to drive vehicles which they could drive under the old, hence the inclusion on the licence of group D. It appears that the licensing authority in question is interpreting the proviso to mean also that such applicants cannot be authorized to drive vehicles which they were not entitled to drive under the old regulations, hence the exclusion of groups B and C. It cannot be said, we think, that this is not a possible interpretation. We have no information as to how the licensing authorities are dealing with the matter.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

LANCS. (No. 11) COMBINED PROBATION AREA

Appointment of Female Probation Officer

APPLICATIONS are invited for the above appointment. The Combined Area consists of the County Borough of St. Helens and Prescot and St. Helens County Petty Sessional Divisions. Applicants must not be less than 23 or more than 40 years of age, except in the case of serving whole-time Probation Officers. The appointment will be subject to the Probation Rules, 1949, as amended and the salary in accordance with the prescribed scales.

The successful applicant may be required to pass a medical examination.

Applications, with two recent testimonials, to reach the undersigned not later than July 23, 1951.

W. McCULLEY,
Clerk to the Combined Area Probation Committee.

Town Hall,
St. Helens.

COUNTY OF ESSEX
DIVISION OF BEACONTREE

Probation Officer (Man or Woman)

APPLICATIONS are invited for the above whole-time appointment, at a salary in accordance with the Probation Rules plus Metropolitan addition £30 a year. The appointment will be subject to medical examination.

Applications, together with copies of two testimonials, must reach the undersigned by July 31, 1951.

H. G. BARROW,
Secretary to the Probation Committee.

The Court House,
Great Eastern Road,
Stratford, E. 15.

GLAMORGAN

Appointment of Chief Constable

The Standing Joint Committee for Glamorgan invites applications for the appointment of Chief Constable of the County. Applicants must have had previous police service, and a knowledge of Welsh is desirable.

The salary scale will be £1,890 per annum rising by £70 annually to £2,100, together with the usual allowances. The appointment is subject to the Police Regulations for the time being in force. The person appointed will be required to pass a medical examination.

Forms of application and conditions of service may be obtained from the undersigned, to whom completed applications endorsed "Chief Constable" must be sent not later than Monday, July 30, 1951.

D. J. PARRY,
Clerk of the Standing Joint Committee.

Glamorgan County Hall,
Cathays Park,
Cardiff.

CORNWALL COMBINED PROBATION AREA

Appointment of Full-time Female Probation Officer

APPLICATIONS are invited for the appointment of a full-time Female Probation Officer for the Western Area of the County of Cornwall.

The appointment will be subject to the Probation Rules, and the salary will be paid in accordance with these rules. The salary will be subject to superannuation deductions and the selected candidate will be required to pass a medical examination. The officer will be required to provide a motor car and an allowance will be paid in accordance with the scale adopted by the Probation Committee for the Combined Area.

Applications, stating age, qualifications and experience, and accompanied by copies of not more than three recent testimonials must reach the undersigned not later than August 7, 1951.

E. T. VERGER,
Clerk of the Peace.

County Hall,
Truro.

WELWYN GARDEN CITY AND HATFIELD DEVELOPMENT CORPORATIONS

Legal Assistant (Unadmitted)

APPLICATIONS are invited from unadmitted solicitor's clerks of not less than 30 nor more than 40 years of age with at least ten years experience (excluding war service) in Conveyancing Law and Practice and general legal work in private practice and/or Local Government for appointment as Legal Assistant (unadmitted) in the Legal Department of the above corporations.

Applicants must be capable of working with only slight supervision and undertake in addition to general legal and conveyancing work the preparation and conduct of compulsory purchase orders.

The commencing salary will be £625 per annum.

The successful applicant will be required to contribute to the Local Government or New Towns Superannuation Schemes and may have to submit to medical examination.

The appointment will be terminable by one month's notice on either side.

Applications, stating age, present salary, particulars of experience, and the names of three referees, should be addressed to the General Manager, Midland Bank Chambers, Howardsgate, Welwyn Garden City and be received not later than fourteen days from the appearance hereof.

When replying to advertisers please mention the Justice of the Peace and Local Government Review.

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